

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, APRIL 9, 2001 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Shoecraft; Council Members: Camp, Cook, Fortenberry, Johnson, McRoy, Seng (arrived late); Joan Ross, City Clerk; Members Absent: None.

The Council stood for a moment of silent meditation.

READING OF THE MINUTES

FORTENBERRY Having been appointed to read the minutes of the City Council proceedings of Apr. 2, 2001, reported having done so, found same correct.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: None.

MAYOR'S AWARD OF EXCELLENCE

Mayor Don Wesely: Thank you Mr. Chairman and Members of the City Council. It's my pleasure to present the Award of Excellence for the month of February. This award is presented to a team of Lincoln Police Dept. employees and as I read their names I would like to, well maybe this would be sequencing it, but I'd like to eventually have all these officers join me up front here. Sgt. Donald Scheinost, Sgt. Thomas Hamm, Officer Matthew Franken, Officer Christopher Champoux, Officer Michael Barry, Officer Shane Alesch, Officer Matthew Brodd and then I'd ask that Capt. Thoms come up here too if you don't mind. These men are the first responders to the apartment house fire at 4112 Huntington that occurred the last day of the year 2000. At 3:30 a.m. on Dec. 31, 2000, a very cold night, the Officers were dispatched to 4112 Huntington Street on a report of a fire at the apartment complex with people trapped inside the building. The first officers on the scene advised that the building, a six unit, three story complex, was fully engulfed with flames and those flames extended as far as 30 feet above the roof and dark smoke was already coming out of the building. The entire commons stair area between apartment areas and units was consumed by fire and the only way out of the building was for trapped residents to break out their windows and exit through those exterior windows dropping to the ground below. Trapped inside the building were four adults and nine children, five of whom were infants. The officers encouraged the adults to drop the children out of the windows and then to jump into their waiting arms where the victims were then placed in warm cruisers, and was about zero degrees out I understand. I remember it was very cold. And, their medical needs were attended to until ambulances arrived. Charles Criggs, the resident in the garden level apartment who discovered the fire made the call to 911 indicates that Police arrived in a little more than a ½ a minute. That is a quick response time and that is what saved these peoples lives. Amazingly, the only injuries were minor lacerations and smoke inhalation. All the Officers performed heroic feats in rescuing the residents from the burning building and there's no doubt the quick actions of the Officers prevented a more tragic outcome. Please join me in congratulating this team of Officers and Sargent's for their rescue efforts. (applause) I would like the Officers to come forward, if you would, and I'll hand you an award. First, Officer Brodd. Officer Scheinost. Officer Barry. Officer Hamm. Officer Franken. Officer Alesch. Officer Champoux. Tom would you like to say anything?

Chief Casady: You've said it all thank you.

Mayor Wesely: OK, well I asked each if they'd like to speak, but they are very shy I guess except when there's a burning fire and they need to catch somebody jumping out. Your courage, your heroism is applauded by this entire community. We are very proud of you. Thank you very much. (standing ovation, applause)

PUBLIC HEARING

CLERK Before I call the first items up I will have a couple of announcements. With regard to Item No. 36 on today's agenda which is Item 5, if any of you are here for this particular item with regard to hearing the outcome of the vote this is Appeal of Heartland Insurance Pool Inc.

from the Planning Commission denial of Special Permit 1896, there has been a request to withdraw this item and we just wanted you to know this at the start of the meeting. And, then further, we'll entertain a motion from the City Council if someone would wish to move to suspend their rules in order that they can move some third reading items to the front of the agenda and they deal with items on Page 6 on your formal agenda which deal with the cat and dog licensing under Animal Control regulations. And this is a motion to suspend the rules and move them forward.

Jon Camp, Council Member: So moved.

Cindy Johnson: Second.

City Clerk: And, this is a motion to move them forward.

Mr. Camp: To suspend the rules.

City Clerk: And, move them forward. OK. Fortenberry?

Jeff Fortenberry, Council Member: Yes.

City Clerk: Johnson?

Cindy Johnson, Council Member: Yes.

City Clerk: McRoy?

Annette McRoy, Council Member: Yes.

City Clerk: Shoecraft?

Jerry Shoecraft, Council Member: Yes.

City Clerk: Camp?

Mr. Camp: Yes.

City Clerk: Cook?

Jonathan Cook, Council Member: Yes.

City Clerk: Motion carried 6-0.

Mr. Camp: Mr. Chair, would it be appropriate to go ahead and make a motion regarding the proposed animal control ordinance that I would move that we delay a week and that we include public hearing with that pursuant to our discussions this morning.

Ms. Johnson: Second.

Mr. Shoecraft: Any discussion?

Mr. Cook: Do we want to then introduce the substitutes before or after the delayed motion?

Mr. Camp: I'd be glad to include those so we have them on the table for discussion.

Mr. Cook: This is a motion to move all the substitute ordinances, delay vote, or delay a week and have public hearing next week.

Mr. Shoecraft: The purpose of that is again, there is a substitute amendment and we want the people that are concerned about this issue to have time to review the substitute ordinance and then have a public hearing next week and vote in regard to the animal control ordinances. So, again we did this so you don't have to wait a couple hours before we got to that item. And, that will be delayed with the substitute ordinance next week with public hearing.

Mr. Camp: Mr. Chair if this is during discussion I would also like to note that the City will have full copy on the website for people to see or they can contact our office or the Clerk's office to get a copy of it so they can see the new language.

Mr. Fortenberry: Yes.

Ms. Johnson: Yes.

Ms. McRoy: Yes.

Mr. Shoecraft: Yes.

Mr. Camp: Yes.

Mr. Cook: Yes.

City Clerk: Motion carried 6-0. Ok and that delays Items 40, 41, 42, & 43.

Mr. Shoecraft: Just so you know we made a motion to delay for one week with public hearing and we put the substitute ordinance on the floor, too.

Jennifer Brinkman, Mayor's Office: OK, we'll have a summary of the substitute then for you and then for anybody else if they want to contact the Mayor's office or we'll also have a copy available at the Council office if people want to get that.

Mr. Cook: Jon mentioned it should be on the website, often it, it wouldn't normally show up until Thursday probably, is there a way that maybe the website could be updated to note that this is available and something people can look at before Thursday?

Ms. Brinkman: Sure, we'll talk to Information Services this afternoon and get them a copy as well and then we'll just try to make some kind of notation near the City Council site.

Mr. Cook: Great.

Mr. Camp: Mr. Chair & Jennifer, I don't know if it's appropriate on the website, but there's been a summary of the assailable changes and perhaps to help viewers just understand what is being proposed to be

changed it could save them reading the whole document and so if that could be included.

Ms. Brinkman: Sure, we'll put both of them out there.

Mr. Fortenberry: Actually, I was going to suggest that if you could that you review that right now. I know you weren't prepared to do that so if that's too much of a burden.

Ms. Brinkman: Oh, OK I thought we were going to use the voting session. I'll do the best I can off the top of my head. The substitute ordinances that we have proposed the Council look at and you'll vote on next week, basically leave the general animals and the unusual animal ordinances that were before you last week in tact. So, I can't go over the specific changes there, but there would be no changes to both of those. I believe it was listed as 1-42 and 1-47. Both of those would be the same, although they were incorporated into one. Then as far as the ordinance 1-43 regarding cats it would only make four changes. One is about what the tag says when someone has a licensed cat. Instead of saying Lincoln Cat Tag it says Lincoln. It would raise the minimum fine for any violation within that ordinance from \$25.00 to \$35.00. It clarifies that any money collected through licensing of cats goes to the Animal Control fund. And then fourth, as I mentioned, it would still retain the prohibition on unaltered cats running at large. So, in order for a cat to run at large it would have to be spade or neutered. As far as the dog ordinance then as far as the substitute that's 1-44. It again does the same thing in clarifying what is listed on the dog tags as Lincoln instead of Lincoln Dog Tag. It increases the minimum fine for a violation from 25 to \$35.00. It changes the amount of time that you have, I believe, to clean up after an animal within, and I can't tell you what the specific range is, but from 7 to 5 days it reduces that amount of time. Or it might actually move from 5 to 7 and I'm sorry. I'll clarify that in the paper that we have. And, then the other part just clarified that any fees collected under the dog ordinances then go to the Animal Control Fund. So, those are the general changes. There aren't many of them and then we would also request that any discussion about the other issues that were discussed at public hearing will go on and be discussed by the Animal Control Advisory Board.

Mr. Shoecraft: Is there opportunity, also, to expand the Animal Control Advisory Board to get a representative from the working dog community to have representation on that board? Is that still too late as they go back and deal with some other issues or future issues?

Ms. Brinkman: I'll be glad to discuss it with the Health Director. At this point I think the Animal Control Advisory Board is actually appointed by the Department of Health Director and so I'm not sure how they've set up those appointments, but I'll be glad to pass along that you'd like that person to be part of the Board. The Board is different than the Task Force that started working on these recommendations. So, I'll pass that along to them and we'll get back to you.

Mr. Shoecraft: Alright. Thanks Jennifer.

DECLARING APPROX. 2.04 ACRES OF PROPERTY GENERALLY LOCATED ON THE NORTH SIDE OF PIONEERS BLVD., WEST OF RIDGEVIEW DRIVE, AS SURPLUS & AUTHORIZING THE SALE THEREOF. (2/26/01 - PLACED ON PENDING) (IN CONNECTION W/01-55) (4/2/01 - REMOVE FROM PENDING W/PUBLIC HEARING ON 4/9/01);

CHANGE OF ZONE 3311 - APPLICATION OF THE DIRECTOR OF THE PARKS & RECREATION DEPARTMENT FOR A CHANGE FROM P PUBLIC USE DISTRICT TO O-3 OFFICE PARK DISTRICT ON PROPERTY GENERALLY LOCATED 450 FEET WEST OF RIDGEVIEW DRIVE, ON THE NORTH SIDE OF PIONEERS BLVD. (IN CONNECTION W/01-14) - Lynn Johnson, Parks & Recreation: What I'd like to do is provide just a brief overview of the history of the acquisition of Holmes Lake Park. An overview of the proposal by Talent+ to acquire the property and then just a very brief discussion of the Planning Commission and Parks and Recreation Advisory Board review of this proposal. Just a little background by way of history and a little background on the Park, Holmes Park is approximately 555 acres in size. There's approximately a 100 acres contained within the lake of Holmes Lake. About 250 acres are owned by the City of Lincoln and the remaining land is actually owned by the Federal Government, the Corp of Engineers and it's operated and managed by the City of Lincoln for recreational use under license agreement. The land was purchased in the early 1960's. Actually, the City and Federal Government entered into an agreement where by the land would be acquired by a single entity and then the land that wasn't required for the flood control project would be sold back to the City and that's actually how the City acquired the area that is much of the golf course. Let me orient you just a little bit. (showing a map) This is Holmes Golf Course, Holmes Lake is to the north and to the west. This is South 70th Street. This is

Pioneer Blvd. This is the cemetery. The homes along Ridgeview Drive. This is the parcel that is presently owned by Talent+ and this is the approximate area that is discussion today that Talent+ has requested that the City surplus this property. The total of this is about 2.31 acres out of approximately 555 acres that are owned by the City. In reviewing the deed and the land transfer, it appears that the Federal Government retained an easement for the permanent flood control which is specified at 266 feet above flood elevation and it's located about this area. And, then it appears that there are no restrictions on the land that's outside of that permanent part of the flood easement. Holmes Golf Course was built in 1960 or between 1964 and 1966 and the remainder of the park improvements, including the roadway, roadway improvements, parking lot, ball fields, playground were constructed it appears between 1966 and 1969 and there were federal land and water conservation funds used within that. Essentially, the reason that's significant is that in transferring those funds to the City or in granting those funds to the City the Federal Government requires that anytime the City sells it has to go through a conversion process. What that conversion process means is that in this instance that this land has to be sold at fair market value and that replacement land has to be replaced value for value and not acre for acre. So, this 2.13 or 2.3 acres most likely will be converted to many more acres than that and we'll see a net increase of park land within the City because of this sale. We think from that from Parks & Recreation standpoint that this is a benefit, the one I already identified is this will result in a net increase in park and open space land. As you can see from this drawing the Holmes Golf Maintenance Shop and maintenance facilities area located on this site. As part of the negotiations associated with this the maintenance facilities will be relocated to the north portion of the golf course immediately east of the practice range and off of South Shore Drive. They'll be tucked back into an existing grove of trees and it's actually fairly low in this area and one of the concerns that we hear on a regular basis is just the appearance of the maintenance facility from Pioneers Blvd. So, we'd be taking that facility away from Pioneers Blvd. and tucking it into a location in the park that will not or should not be visible from many areas at all. The other thing that will happen is that this facility, as I said, was built in the mid-60's that actually doesn't meet standards in terms of work space and chemical storage. The new facility will meet current standards and will be increased in size. The Parks and Recreation Advisory Board and the Planning Commission that reviewed this they both recommended approval. One of the things that we did, as you know, this was placed on your agenda several weeks ago at representative of Talent+ request we've moved the zoning action to be parallel with this to assure the community that the fair market value of this property was determined based on office zoning. And, so that there is no misconception that it's being sold at something other than the value of the land at it's intended use. The Planning Commission recommended, unanimously recommended approval of the zoning action this afternoon, excuse me two weeks ago, but they've recommended approval of the zoning action and I'm certainly available for any questions.

Ms. McRoy: Lynn, what will be the value of the new maintenance facility that you're going to build within the park? Do you have a value on what that's going to...?

Mr. Johnson: Roughly, it's going to be about \$150,000. And, I should have said the appraised value of this property is in excess of \$660,000 as well. I think that's something that the Council should know as well.

Ed Schwartzkopf, Cedars Home for Children: I'm not concerned about weeds today. I'm concerned about Children. I've been with Cedars Home for Children for over 45 years and when we first started Cedars was in 1947 and it was a very pristine location. Gravel roads, no sewer, cess pools and when it flooded we knew where the cess pools were located. We are delighted that this organization, Talent+, wants to make a campus here and they shared the plans. They've already improved the property. There was a house there. It's still there. They're maintaining it. We are real concerned about what might go in this location. We certainly don't want a bunch of apartments going in and having children running all over the place. We have dedicated that complete Cedars structure for the care of children. The demand has been so great we've turned away about two kids every other day and we're now all over the City. And, I should have brought you maps, but I don't want to take the time to read all those and tell you where we're located. And, we have some of the most unusual cases such as the mother who has a baby that puts it into a microwave oven to keep it warm. Well, that doesn't work too well for the baby. And, we

have other very unusual cases. We're concerned about what might go in and, I don't know if you're deliberating whether Talent+ is the right facility to go in here, but we have visited with them. They have shared the plans and it will not be high traffic and it won't be lots of people in and out. They usually will go there in the morning and when they go out they're going somewhere else. So, we're real concerned what might go in there and we would say that we certainly value the way that Talent+ has shared their plans with us and have already made improvements. And, if any of you would like to make a check right now to help support the Children of Cedars I would be glad to pick that up on my way out and we'd be glad to give you a tour. But, we've really enlarged our facility and also each child that comes along we now have a facility for about any kind of child that needs help or family we would be prepared to do that and we probably run through 6,000 children every year. Do you have any questions I'd be happy to answer them? Thank you.

Ed Vigna, Board of Directors of Talent+: I'm one of the Board of Directors of Talent+. I'm accompanied by Sandy Maxwell also a Board Member of Talent+. We're here obviously to speak in support of this action. I think many of you know the long history of our activity with 65th & Pioneer area that Mr. Schwartzkopf has pointed out. We began this activity in the spring of 1997. Have worked very closely with all the City agencies. Have followed all of the rules and procedures and regulations as set forth by the City. And, I'd like to ask Ed how many numerous meetings we held at Cedars, open meetings to allow people to come and see what our plans were and to address any issues or concerns that they may have. We are committed to the City of Lincoln. We have been wooed by many other cities in this nation. In fact, more specifically, Colorado Springs has offered to build for us a facility and to provide us with land. They offered to bring a relocation team into Lincoln not long ago. However, Lincoln is our home and this is where we want to remain and we have been willing to put forth the financial commitment and as I say to meet and follow all the regulations necessary. We certainly feel that this is not only the best interest of Talent+, but certainly the best interest of the City and the community when we think of the trade of 2.3 acres for approximately 98.8 acres of park land. As Lynn pointed out it's not an equal trade of land, but trade of value. We have been willing to meet the appraised price as set forth by the appraisal established by the City and therefore we feel that we have followed, as I say, the rules and regulations, have certainly been a good citizen and want to continue to be so as part of this community. I have other materials, if necessary, if any of you ladies and gentlemen have questions I'd be glad to answer those at this time or later if any issues arise. Thank you very much for your time.

Danny Walker, 427 E Street: My only concern is I hope this isn't want of those stupid moves that was proposed by Parks & Rec to sell Echo Park. I really hope they know what they're talking about on this issue here which they most certainly did not on Echo Park. Fortunately, for the people that are living out in that area of Echo Park which is at 48th & Holdrege I think they stood their ground and the Planning Commission stopped the sale which I think was a smart move and a very stupid move on Parks & Rec to even think about selling that out there for development I might add. Just go out there and take a look. That area is being upgraded, supposedly, for flood control. It doesn't make much sense to sell that land right on the flood control problem does it? Like I say I hope this isn't a mistake. Any questions? I would like to know if the Army Corp of Engineers was involved in this planned exchange, also.

Mr. Shoecraft: Do what now?

Mr. Walker: I'd like to know if the Army Corp of Engineers was involved at all in this land exchange. Thank you.

Mr. Shoecraft: Lynn, do you want to address that?

Mr. Johnson: I can. We have briefed the Army Corp of Engineers on this proposal. They are not involved at this point, but the Nebraska Department of Game and also the Federal, National Parks system is also involved in this because of the requirement to replace the land value for value.

Ronald F. Bauer, 4421 Smoke Creek Hollow: And, I oppose this. One, I don't think that putting an office park or anything else in there is compatible with existing land use. The existing land use is residential and park. Those two. And two, I don't think that Lincoln should be selling their park land. We've heard all this good stuff about the good number of acres we're going to be acquiring, but I just, I don't think that we should be selling any of Holmes Park, Holmes Lake Park. I did speak at the Planning Commission meeting on March 21st. At that time I posed the question, what were the criteria for declaring land surplus?

How that was answered later on, if it said the criteria for surplus there was only one criteria provided, "the process as initiated by the applicant and in this case it was Talent+". That to me is no reason to designate surplus. That should be made by the Parks & Recreation Dept. and the people of the City of Lincoln. The land is really not surplus, it is being used for park purposes and that is it's best use. Lincoln Lancaster Planning Staff report dated March 6, 2001 under specific information, "Aesthetics Consideration - the area is currently used for a park maintenance facility". That really doesn't address aesthetics. Aesthetics covers not only this 2.04 acres, but it includes the entire area and like I said that entire area is park land and residential. So, I don't see how that comment on aesthetics covers the point of aesthetics. It was also said at that time that this was a win win situation. I don't believe that it's a win win situation. I believe it's a win lose situation and the loser is the City of Lincoln. Thank you.

Craig Groat, 4935 Huntington: I'm here because I have a great appreciation for our city and our parks are one of the main parts of the quality of life of our city. I was bothered many years ago when I was a small child when they sold what was called Antelope Park on O Street where the pillars are now at Pioneers Park. Where standing on O Street I used to love looking at that when I drove by with my parents and turns out they took that money and used it to purchase some of the property out at Holmes Lake. This is very wrong. Companies in our city should be donating park land to our city instead of building on it. I have an article here from the newspaper. This is from 1960's, Park Board honor award to George Holmes. George W. Holmes retired banker and civic leader has been honored with the Park Builders Award of the City and Recreation Advisory Board. The 84 year old Holmes has been a member of that City Park Board, later Park & Recreation Advisory Board since 1947. A strong advocate of park expansion, Holmes has battled encroachments upon park land for streets and or highways. George Holmes would have been against this. I have another article here. The Federal Park Area Fund application ok'd this. This is for a little bit different purchase of land out there. Tuesday, January 16, 1962 the City Council authorized Mayor Pat Boyles and Planning Director Douglas Brogden to initiate application for federal aide funds to buy land in the Antelope Creek Dam recreation area, which is the same thing, under the program in which Lincoln is interested. Cities may get 20 to 30% of the cost for permanent open space land purposes. Aside from the restriction that the land be devoted to park, recreation, and open space uses. I have a copy of the deed to the City of Lincoln, it says subject to the easement and the state here and after set forth. And, then it goes on in consideration of the covenants and the recitals contained in agreement dated 17th of April, 1961. I have a copy of where that was accepted in the City Council record A-49429. Judy in the City Clerk's office has been looking for this all morning and hopefully, she'll have it yet this afternoon. Apparently, there were restrictions and this was a dedication to the City. I have a court case here (inaudible) vs. Lakeview from the Nebraska Supreme Court. It goes on, when the park land is dedicated or donated to a city under the condition that it be used only as a park, the City cannot divert the land to a use inconsistent with the purposes of the grant. In Nebraska the City is prohibited from all time diverting park land received by gift or dedication from a private party and restricted only to park use. This would, this land would have been transferred in the Federal Government's private or proprietary capacity. I can go on and explain that to you if you like. The court case goes on, the Supreme Court, in summary, if land is given to the City by a private party with a restriction on it's use. The City must adhere to this use for all time, at least in Nebraska. The rule is based on the theory that a binding contract between the dedicator and the public arises at the time of the gift. And it goes on, where dedication is made for a defined purpose, neither Legislature, municipality, it's successor, nor general public has any power to use property for any other purpose other than the one designated. Whether use be public or private or whether dedication is a common law or statutory dedication notwithstanding that changed use may be advantageous to the public. Lincoln has, is a city of the primary class. Omaha is the city of the metropolitan class. Neither one has been given the authority to sell park land. Cities of the first class, which are under a 100 population, has been given statutory authority to sell park land. This goes on, under the circumstance in which a City reside title to property by gift or deed restricting use of park land. I started at the wrong place here. By our holding in Gallagher this court has followed the general established rule of other jurisdictions that park property is dedicated to and used by the public is somehow different than other city owned property. We stated that a trust for the benefit of the

public only protects park land received by a gift or purchase conditioned for a specific use. Then it goes on, is a municipalities intention that result in treatment of the land that determines whether or not it has park. This means that by, that a city places usual park amenities on the land such as bathroom facilities, park benches, water fountains, walkways, swimming pools or even golf courses. So, that would be continuous of the park land. OK, McQuellen, a municipal corporation cannot sell or dis... or I mean McQuellen's municipal law, a municipal corporation cannot sell or dispose of property devoted to a public governmental use or purpose as already had been discussed without special statutory or chartered or authority. Since, as to governmental functions a municipality is a mere agent of the State and subject to control by the State Legislative authorities. For instance, property may not be sold where it has been acquired or dedicated for public use as a common or as a park or for school uses. 28.39 Property which has been conveyed or dedicated to or condemned by a municipal corporation for designated public purposes is held for it, is held by it for such purposes and no other. This municipal property held for a public use cannot be disposed of in violation of the terms of which it is held. A city cannot dispose of property which it has previously dedicated to specific public use and which has been so used by the public.

Mr. Shoecraft: Dana.

Ms. McRoy: Just in general those court cases that he cited were you aware those? I guess I'm looking for a response in general not specific.

Dana Roper, City Attorney: Generally, when you sell park, that if you, if a city wants to sell park land, park land is different from other real estate that may be held or owned by a municipality or government. It's a different process. A trust has been created. There may be a prohibition or a restriction on the sale of that park land. In this, there are six different ways that a trust may be created. Now, the cases that he cited were cases where it was a gift. I will give you this land for park purposes as long as you name it after me and maintain it for park purposes. That would be one example. Another would be where a city has a bond issue to go out and buy a specific park. In this instance from the documents that we have seen we don't see the trust created here. And, if there are documents they're not on file with the City Clerk, they're not on file with the Register of Deed, and they're not with the Parks Dept. And, so we'll see what the Army Corp of Engineers comes up with. But, basically here the license agreement contemplates this can be sold. The criteria for if you do sell it here's what you've got to do and here's what you've got to do to replace it. So, this would appear, contemplate that some of this could be sold.

June Simpson, 3800 S. 84th Street: My concern about this is, has a few different parts. Initially I was concerned because the public hearing came early in January just 8 days before the Planning Commission OK'd it, and no one knew about it. There was no sign out there. There was nothing. And, even though the newspaper said there was, there wasn't. It was simply in the paper in the public notice in the sports pages. And, then the neighbors didn't know about it. And, even though Ed Schwartzkopf knew about it the other neighbors didn't know and haven't seen the building plans. In fact, just as an aside doesn't normally in a zoning action don't you see what they're going to do like the building plan? We need to see that don't we? I mean, that's important to me. I think the process itself is flawed and that is a city administrative ordinance or something that allows the park to sell the land, whether or not it's legal or not that's to be determined. But, it seems to me that it's too secretive that people don't have a chance to say wait a minute when it's been in the process for two whole years. Does anyone think that avalanche is going to get stopped at the end? I mean it's really kind of worrisome for people in Lincoln to have that process going on. Then the other part that I'm concerned about is office space next to park land. Is that part of the City Council, or the Comprehensive Plan and how do we know that? It seems to me the Comprehensive Plan gets awfully skewed to fit whatever someone wants and that is a concern of mine. I'm concerned about the possibility of lighting and Hyde Observatory is right on the crest of the hill just across the way. I don't know if anyone from Hyde has been concerned about it, but I would doubt that they have been talked to. And, then we talked about appearance. What if there's a three story office building there? Is that going to look better than a maintenance building? I don't know? I mean it's right next to the park. The parks getting nibbled away on all corners. What does that do to our park? Isn't park land a little bit sacred in this City? Don't we need to at least think about it that way? I have no problem with Talent per se. There's lots of land over on the other side of 70th Street that's being zoned, I think,

right away into commercial space. There's commercial space on all three corners there and yet, you know, why are we using this park land. That's a concern. Thank you.

Mike Morosin, Past President Malone Neighborhood Assoc., 2055 S St.: I think two questions come up. You know, why are we voting on this until the disposition of the Army Corp of Engineers comes through, some communication in some written form that all of us and the citizens can see. And, maybe it's not written, but the intent or the spirit may have been implied at the time of the gift. So, I think we have to go back and study that because sometimes it may not be written down but, the giver of that gift may have assumed or implied that this is what they wanted with the gift perpetually. So, let's take a look at that. Those are a couple of questions that came forward. Thank you.

Jane Kinsey, 6703 Hawkins Bend: And, I'm here to speak to several issues. The first one is two E-mails that I sent to the City Council members on March 2 and April 8th with the names of 107 residents who live within two blocks of this development in protest against it. One of the reasons is that when we bought our property we did not expect an office park here. We expected Holmes Park to be there for us and we thought that there would be, residential would be the only development near us. At the present time, as you know, three corners of 70th & Pioneers are being developed commercial. Why do we need more office buildings? If you drive around Lincoln you can see office buildings empty and space for lease. We've over done this. We are unhappy that you are taking our park and giving it to others. You want to take some of our park land with it's aesthetic value and buy other park land in the City that we cannot enjoy unless we drive over there to it. There's already horrendous traffic problems, congestion and noise and trouble getting out onto Pioneers from both ends of Ridgeview Drive and I'm sure from Cedars Home for Children, too. I've been over there to vote in the past and it was not easy. The first re-zoning called for a campus, an education campus with 20 employees. This is a whole different ball of wax that is now planned. We were not told about it, any of the 107 residents. We feel that anything is possible with a 300 employee building plan and that the parking and the traffic congestion will just increase dramatically. We feel that this is a breach of the public trust. That we expected park land there. That all over the City park land is being taken and made into commercial development and we're very unhappy about that. We would urge you to remember that Lincoln is growing and that we need park land still and taking our parks is not appropriate. The price appraisal, you know, who else is putting in a bid on this property? If you need money to take care of your maintenance buildings, let's look at some other way to raise this. We would be willing to help you in this endeavor if you want to have improvements to your maintenance buildings. It really appears that business interests have priority in Lincoln at this time over residential people and we've lived here a lot longer than the business interests. The process favors them. They have years, what since 1977, for a plan that we were never included in or told about except for a few weeks before it is, comes up for vote by the City Council and is a done deal. There are other planned developments in Lincoln that Talent+ could use. And, we urge you to vote this down and let them look at other places in Lincoln for that.

Mr. Camp: Jane, I had a question. You started out your testimony talking about the process and I know we met a couple months ago on this and I appreciate what you said about the process and some of that has been revisited. You had mentioned at that time and I had some indirect contact with some other parties that might be interested, has anything developed on that?

Ms. Kinsey: I don't know if it's going ahead or not, but I think that we need to throw it open for that possibility. We have nothing definite, but there was some looking into it by legal representative. So, I think it is. I don't think it's been thrown out. There was also talk of making it into another kind of park, buying and donating it to the City as possible park.

Mr. Camp: To your knowledge no one's moved forward from the other side? The other parties interest?

Ms. Kinsey: The other party? No.

Erik Hubl, no address given: I'm a supervisor out at Hyde Observatory. And, I'd like to thank my fellow citizen for wondering about Hyde Observatory and if we'd been notified about this. I can say that Talent+ has not spoken to us directly about this. We would really appreciate it if they did come and speak to the Staff. We meet the last Tuesday of every month out at Hyde Observatory. On the other hand Parks Dept. has done a very good job of keeping us informed of the status of

this issue. I just wanted to share with you today, perhaps, a few details, facts on this just so you're aware of this, our concerns and why they exist. You can see Hyde located right up there. It's approximately 3000 feet down here to the new location. Elevation difference is about 10 feet. We're at 1288. They're at 1298. And, our viewing area at the Observatory is basically to the south. Probably an angle about like that where we view off to the south. Now, one of the other items up on the agenda today is Pioneer Woods at 70th and Pioneers. I just (inaudible) about that. Michael Rierdon has worked with us from the very beginning to let us know what they plan to do down here at this corner and that's all we're asking in a situation like this. We believe an office type facility could go in there. A 300 person office facility is fairly significant. You're going to have to put a parking lot there. You're going to have to light that parking lot. You're going to want good, safety security lights around the facility. We believe all of these things can be accomplished adequately with proper shields so there's minimal, minimal impact of light up to the sky in our viewing area. So, that's my role here today is to not oppose this, to rather be in a neutral position. I believe in economic vitality of the City is an important thing as do my fellow supervisors. So, with that said we just wanted to bring to your attention, once again, the issue of light pollution. Thank you. If there are any questions I'd be glad to answer them.

Harley Batie, 4427 Ridgeview: I didn't plan on being here or say anything, but I was aware of it and I thought I'd stop in. I only want to take a couple of minutes of your time. But, along with the Cedars Home that we're concerned about the children, the area right across on Ridgeview Dr., I live on Ridgeview Dr., is a retirees area. There are all, just about all senior citizens. When they expanded the or redone the, the Pioneer Blvd. I was concerned as far as a light at, as you come out on Ridgeview Dr. You can't have a light there they said. So, we have three lanes. That is a hilly street & as they speed anywhere from 40 to 50 miles and hour. And, if one is coming from the west and coming up the hill and you just looked. You better look twice because by the time that you see them they'll be there if you don't hurry up and pull out into the middle lane to get there. So, I see that that is very much a concern, particularly with older people because we aren't the fastest drivers, we know that. But, I am concerned about that and that we can't have a light there. We don't need any more congestion whatsoever and I am for parks. Lincoln is well known for its parks and I hope that we don't start deteriorating all of them. So, thank you very much.

Mark Hunzeker, 530 S. 13th St., Suite B: I hadn't intended to say anything today, but I think there's a little bit of misconception about the circumstances out here. As you know, the property that Talent+ currently owns is zoned O-3 and has a Use Permit approved on it. It is immediately adjacent to the park property that's proposed to be sold. That was approved as a result of the process of numerous meetings with the neighbors in the abutting subdivision as well as people across the street. Many of those meetings being held at the Cedars Home over a course of several months leading up to public hearings in front of the Planning Commission & this body prior to it's approval. So, it's not going to be residential although as part of approved use permit Talent+, while not being required to, voluntarily included several features that were designed for the protection and integration into that area of this project. Those includes limitations on lighting which will maintain the low shielded fixtures, the height of the building. They also provided, at their expense, a turn lane off Pioneers into the site and agreed that they would maintain the existing houses that are along Pioneers Blvd. that are on their property in their current configuration to maintain the residential character of the property from Pioneers Blvd. There is no desire to turn this into a traditional office park. It is intended to be a campus type setting for a company which although it has 300 employees, many of those employees are out of town on a given day. In fact a high percentage of them travel because much of the business, in fact, a great majority of the business that Talent+ does is with companies that are outside the City of Lincoln. One of the attractive features that Ed didn't probably mention to you is that of moving to a city like Colorado Springs would have been more convenient air fare and access to scheduling for their employees. But, they've chosen to stay here. This has been a very long process of discussion. Well, the project has been one of cooperation with the neighbors from day one. The project has been one of very long discussions with the City including several meetings with Park and Rec Advisory Board as well as many meetings with the Park Dept. and the administration to reach the conclusion that they've reached. This has not been something that just sprung up a few weeks ago. It has been going

on now for, as Ed said, at least three years and I just think it's important that everybody understand that this is not a surprise nor is it something that's been arrived at easily or lightly.

Mr. Cook: Could you explain the time line on the, of the process that you went through on the original section, this O-3?

Mr. Hunzeker: Yes.

Mr. Cook: How long ago was that? That did involve neighbors?

Mr. Hunzeker: Absolutely.

Mr. Cook: And, how long ago was that?

Mr. Hunzeker: That was at least three years ago. That was in the summer of '97. Is that right Ed?

Mr. Cook: OK. But since that time once an agreement was reached on that this additional parcel has been requested from the park land to be an additional space for Talent+, but that was a separate process.

Mr. Hunzeker: That was a separate process and that process started, I believe in early '98 or mid-98, I mean that process in and of itself has been going on for more than two years. That, the idea of having a portion of this property that is occupied by the golf course, particularly the maintenance shed. And, it really started with aesthetics in mind. I mean from the standpoint of Talent+ that wants to build a very nice facility and create a campus like environment on this site. The existing golf course maintenance shop is an eyesore for lack of a better term. It is an old quonset that was placed on the property used. It's too small. It's a mess if you've been by it. It's ugly.

Mr. Cook: Well, but the point I'm not making yet, I guess, is why wasn't there involvement with those same neighbors during the process of the park land discussion that there was on the original land discussion.

Mr. Hunzeker: Let me make sure I clarify the neighbor discussion because I think there may be some people who are on the south side of Pioneers and east of this property who did not feel they were necessarily directly involved in those discussions. The main discussion with neighbors were those that were directly abutting and directly across the street from this property. They were not to the east and south. I mean, I'm not sure where all the signatures came from, but they certainly were not from those abutting property owners or immediately across the street to the south.

Mr. Cook: So, you're saying that those neighbors immediately abutting and across the street to the south were involved in both cases.

Mr. Hunzeker: Absolutely, and keep in mind there is a cul-de-sac of townhomes that is now on the south side of Pioneers that for the most part did not exist when this all started. I mean there may have been one or two under construction, but it was pretty much not there.

Mr. Cook: The other question relates to traffic. I don't remember how wide Pioneers is there if it has the turn lane, the center turn lane or not. You talked about putting in a turn lane. Your talking about a right turn lane for west bound traffic or are you talking about ...?

Mr. Hunzeker: To be honest with you I don't recall, but I believe it's a left turn lane for traffic for east bound traffic. It is, that's my recollection.

Mr. Cook: So, essentially the street there which is four lanes now would be widened to accompany ...

Mr. Hunzeker: It is there. I believe that turn lane is in place. It was built at the time Pioneers was widened.

Mr. Cook: OK. Because I know Pioneers goes from four to five, I just don't know exactly where it tapers.

Mr. Hunzeker: Right. And part of the use permit process was if we agreed to build that turn lane and pay for it and did so at a time when it could be incorporated into the design of the widening of Pioneers Blvd. Pioneers narrows down to a four lane section as it goes past the park because of complications relative to taking park for streets. And, a lot of this street in the area where it goes by the street, the street that goes by Pioneers Park is within the easement area that it was described to you earlier that the Corp of Engineers retain. So, it's a complicated area, but it's all been thought of ahead of time.

Mr. Cook: Do you have a site plan prepared on what's going to go on this site? 'Cause we don't have the use permit before us. We just have the change.

Mr. Hunzeker: I don't believe there is a use permit site plan for this site yet. Ed probably can do that, I mean I have not seen that.

Mr. Vigna: As Mark mentioned we have presented a site plan diagrams, drawings of what the proposed structure would look like. The footprint will not drastically change and obviously because of this pending potential addition to our existing O-3 property we have not

prepared a new diagram as such because it's not going to change the footprint or the actual appearance of the building as such. We're bounded by the regulations that were put in place earlier by height, by lighting, will just enhance the positioning slightly of the building. So, the, you can look at the former or the existing site plans which have, numerous are available and we'd be glad to provide you with, but all it would do is change the entrance and some of the appearance there, but not the actual footprint of the building. Does that address your ...?

Mr. Cook: The site plan that you have prepared right now was the site plan used when you had meetings at Cedar or went before the Parks & Rec Board that was shown to those groups because I wasn't on the Board at that time.

Mr. Vigna: Correct. And we do have additional site plans that would show what it would look like if the additional 2. some acres were added to it. But, again it does not change the building. I thought you were addressing the appearance of the building as such. But, the site plan there are diagrams that show that we have worked with as we've gone through this process with the Planning Commission, the Parks Dept., the Council, the Mayor's Office.

Mr. Cook: I guess given the comments earlier there was concern about not knowing exactly what was being approved there. I'd be interested in seeing what materials you have available if those are already prepared and be passed out.

Mr. Johnson: Mr. Vigna so what you're saying is there's no building in that 2.5 acres. All of its already been approved on the other portion of the land. This is just an extension of what's already there. So, we're not seeing another building. We're not seeing nothing other than taking down the existing.

Mr. Cigna: We're not seeing another building. Exactly. It is an enhancement. That's what we have maintained all along in our partnership with the City to improve the aesthetics and the appearance of the area.

Mr. Camp: And, continue what, yes what Cindy was saying and so it'll just be pure grass on it. Will there be some parking lots on there?

Mr. Vigna: There will be some parking, yes. It will change the entrance moving it a little further to the west, but again the appearance of the building will not be changed by the addition.

Mr. Camp: And as I recall at some point I saw in some of that proposed site plan you had extensive landscaping?

Mr. Vigna: Absolutely. It will all be the appropriate screening and as we are required to meet to the low level lighting and the screening of the parking area, the berming and all the appropriate screening of that parking area.

Mr. Camp: You just spoke of the low level lighting and Erik Hubl was here a moment ago talking about that. I guess as a courtesy I think it would be good to talk directly, even though the Parks has, but do you foresee any situation there that would interrupt the activities of the Hyde Observatory?

Mr. Vigna: I certainly do not and that's why we have been sensitive to that and when that issue was brought up at either the Parks or the Planning Commission we agreed and addressed that immediately that we would provide the appropriate shield of low level lighting not to encroach upon Hyde Park.

Patty Bauer, 4421 Smoke Tree Hollow: I wasn't intending to speak either, but here I am. I live directly south of Cedar's Home for Children and I'm quite familiar with Cedar's. I think they do a wonderful job with the children there and I was employed as a part-time worker for almost 8 years so I'm quite familiar with that area. There is a lot of traffic, right now as you know, on Pioneers, but when I hear from these people of Talent+ that the residents were notified we were not notified and that is why we have 107 signatures. We are within two blocks and the people on South 63rd which is practically across the street from this area that you're talking about in the park were never notified either. It's a new development of townhouses there. The people on Northridge View were notified and I'm aware that they attended some of the meetings at Cedar's Home for Children. I have talked with some of those people. They were very much opposed to it in the beginning, but they finally gave in. They are still opposed number one; they think that you are selling the land much too cheap and I think that is probably true. You have park land like this, how valuable is it? Can you put a value on it in dollars and cents? Those, there are, my husband and I counted I think there are 20 homes in that area. And, that was the people who were notified to oppose this project in the beginning. None of us on the south side of Pioneers knew about it. I don't think that was wise and I don't think it's fair. Thank you.

Ms. Johnson: Ms. Kinsey. We have one more week. This is just the second reading so we're going to be voting on it next week. You still have a week to have any kind of responses or anything else you may want to put there. OK?

This matter was taken under advisement.

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,600,000 OF THE CITY'S Q, O, P, R/NORTH HAYMARKET REDEVELOPMENT PROJECT TAX ALLOCATION AND REFUNDING BONDS - Jon Camp, Council Member: Before the Haymarket people leave I might be remiss, what year is this for the Farmer's Market?

Chris Loflin, Lincoln Haymarket Development Corp.: I think it's 16th.

Mr. Camp: 16th. I guess I'd like to applaud what the Lincoln Haymarket Development Corp. has done and although there is no testimony or anything I think the community really appreciates the efforts of all of you. I didn't mean to catch you there, but gosh I think there ought to be a word of thanks from the community for what's being done.

Ms. Loflin: We have been, I guess, Ron Kane just told me this is the 15th official contract that we've had. We enjoy having the privilege to put on the City's public market down in the Haymarket. We've had overwhelming response with vendors. We are serving the agricultural community as well and we do appreciate everything the City does by barricading the streets and allowing us to have the public market. It does run from May 5th through Oct. 27th from 8 till noon every Saturday and we hope to see you down there. Thank you.

Danny Walker, 427 E Street: That public market down there might be fine for some people although it's not worth a darn for me when I travel down A Street and the traffic's all piled up and backed up down there. Secondly, if you'll recall and I'll remind you since you probably don't recall, last year there were several articles in the Lincoln Journal Star in regards to animals in the area where the food stuff was being served and sold. I think someone probably, in fact, maybe Mr. Camp you would like to call the Health Dept. and see if there isn't some kind of a rule or regulation covering that. I believe there is. I think there's a rule that states specifically where there's food stuff there's no animals involved and I think it is rather specific if I recall. And, the way I understand is the articles in the newspaper why those animals weren't even on leashes. I can't really believe that, but that is a fact and that's the way it was stated in the Journal. Like I say it wasn't just one or two articles there were numerous complaints in the Journal about animals down there.

Mr. Fortenberry: Dogs? Cats?

Mr. Walker: Dogs.

Mr. Fortenberry: Dogs.

Mr. Walker: And, some rather large, I might add. In fact the one individual that wrote in said she had witnessed two incidences of dog fights down there.

Mr. Camp: Danny, in fairness to the area I recall some of those incidences and the Lincoln Haymarket Development Corp. did address those in a very communicating style and there are leashes that are required on animals that go to the Haymarket. As far as the size of the animals and the food situation I know that's been addressed. To be honest I don't have the specific answer, but I'll check that part out because I know the vendors and all do have to follow Health Dept. guidelines. And, I know there is every intent by the sponsors of the Farmer's Market to make it a very safe environment for everybody.

Mr. Walker: I would appreciate it John and I do think it is worth the research because I believe there are entire families that go down there and they might not buy, but they do look and participate and I think we should make it as safe and sanitary as possible. Are there any questions?

This matter was taken under advisement.

AMENDING SECTION 9.44.040 OF THE LINCOLN MUNICIPAL CODE RELATING TO FIREWORKS TO PROVIDE FOR THE ASSESSMENT OF A LATE FEE ON ALL APPLICATIONS FOR A LICENSE AS A FIREWORKS RETAILER POSTMARKED OR RECEIVED BY THE CHIEF OF THE BUREAU OF FIRE PREVENTION AFTER JUNE 23, TO INCREASE THE LICENSE FEE TO \$75.00, TO AMEND THE PROVISION REGARDING ISSUANCE OF A LICENSE, AND REPEALING SECTION 9.44.085 RELATING TO THE SALE AND USE OF FIREWORKS FROM DECEMBER 30, 1999 TO JANUARY 1, 2000 - Cindy Johnson, Council Member: Why is the Staff making these changes?

Bill Moody, Chief of Fire Prevention: At the time of the deadline most of the applicants come in and it really bogs down our staff. Not only Fire Prevention, but the Zoning people have to evaluate the

applications for parking because a lot these firework stands, retail fireworks stands go into parking lots of large businesses and stuff like that so that has to be evaluated as well. Another problem that we see is that the, with the crunch being right at the end there, the tents are contracted and set up prior to the applicants even submitting, so if there is a problem that we see and they actually have to de-construct the tent, take it down and move it this would give us time to evaluate the applications and make comments and suggestions so we can get them put up right in the first place.

Ms. Johnson: What was the application fee prior to it being changed to \$75.00?

Mr. Moody: Currently it is \$25.00 right now.

Ms. Johnson: So it's going up 50.

This matter was taken under advisement.

CHANGE OF ZONE 3134B - APPLICATION OF CHRISTIAN RETIREMENT HOMES, INC. D/B/A EASTMONT TOWERS, TO ADD AND OPERATE A SIX BED HEALTH CARE FACILITY IN THE WILLOW SPRINGS FINAL PLANNED UNIT DEVELOPMENT ON PROPERTY GENERALLY LOCATED AT SOUTH 78TH STREET AND PIONEERS BLVD. - Bob Chitwood, Executive Director of Eastmont Towers: We've been community participants for the past 34 years and would like to erect a home for the terminally ill. Be licensed as assisted living, therefore, it would be regulated by the State Health and Human Services Dept. This project would not just apply to Eastmont, but basically is an effort to reach out to the entire City. A person wouldn't be just a senior that uses this facility at all. And, in order for this project to come about it's been wonderful to partner with Lincoln Businesses to where the entire structure and its equipment has all been funded with gifts by Lincoln business & foundations in our city. And so, the project has had excellent support. It would be owned and operated by Eastmont Towers, and we look forward to presenting this to the City in a way we hope a partnership and a gift to our city where people who come to the end of life could have a dignified place in to which to rest and to just face the end time. I personally committed to that effort. Not everyone wishes to face the end times in a hospital setting or a nursing home setting. We don't always have the energy to take care of them in our own home, but this will be a home like setting as you can see from your plans and we really believe it will be a dignified way, if there is such, to face the end of life. Are there any questions of me?

Mr. Shoecraft: We appreciate your efforts in regards to this project.

Ms. Johnson: Are you working closely with Hospice in this?

Mr. Chitwood: Hospice will probably be the key provider, Cindy, to this effort. We won't be a competitor with the present Hospice efforts, but we will work hand in hand with those people and they certainly have been very interested and excited about what we are doing.

Ms. Johnson: Well, having to be with someone who is terminally ill through the Hospice process it's, this is a fantastic venture that you're going through because it's desperately needed.

Mr. Chitwood: Well, we're excited about it. We think it's a whole new concept. It'll be the first of it's kind in the State of Nebraska that I'm aware of. There are homes that, there is one connected with a hospital in Omaha, but again it is more institutional design and the only way we could do this financially is to make sure we were mortgage free when we walked through the gate. And, thanks be to efforts on the parts of a lot of people that has happened and those monies are all committed. And, it's one of the first times I've been involved in a project where money wasn't the issue. There's other things we have to get ready, but it's at the blessing of our community.

Scott Sullivan, Erickson, Sullivan Architects: We're working on behalf of Eastmont Towers. I just wanted to point out a few things in terms of the design and the process involved. Eastmont Towers did solicit information from the neighbors several months ago. There was a public meeting. As a result of that public meeting one major change that took place in the design that you see in your handout is that initially we had a front facing garage door and separate drive. We've consolidated those into one drive off of the south end of the lot with a side facing garage. You'll also note the parking was oriented such that minimizing the traffic into the neighborhood locating the parking at the south end rather than the north end which brought them further into the neighborhood. Likewise, you'll see in the building design that we're incorporating brick, shingled roofs very similar to the style of houses in the neighborhood. So again, as Bob mentioned. the intent is to have a very residential feel both inside and out of the facility.

This matter was taken under advisement.

CHANGE OF ZONE 3307 - AMENDING SECTION 27.69.044 OF THE LINCOLN MUNICIPAL CODE RELATING TO PERMITTED SIGNS IN THE O-1, O-2, AND O-3 ZONING DISTRICTS TO ADJUST THE PERMITTED SIGN REGULATIONS IN THE O-3 OFFICE PARK DISTRICT TO BETTER REFLECT A TRANSITIONAL DISTRICT - Mike DeKalb, Planning Dept.: Speaking as the applicant at the moment. To give some history on this you may recall back in April of 2000 you approved text amendment that had some substantial adjustments to the O-3 zoning district to better reflect how it was being used within the community and as builders and tenants needed signing. And, that was approved in April. Last November you had the first circumstance come through this body for a request for adjustments based on the provisions of that prior text amendment. Based on that action at that time two of your members, Councilman Cook & Fortenberry, requested some adjustments be considered to the text to reflect errors, or issues that they felt were, needed to be addressed. The Administration agreed to process that and Staff prepared a text amendment that included basically four items. One was the wall sign size was reflected 250 down to 150. The provision for signs facing or illuminated facing residential area would not be illuminated within 500 feet. Provision that reader boards be prohibited and a provision that was in the ordinance that said modification by Council could be requested was proposed to be removed. At Planning Commission hearing there was considerable testimony by the sign industry and others reflecting some suggested amendments. And, Planning Commission incorporated two of those or I should say four of those amendments. They replaced a provision from modification by Council. Replaced the provisions to allow reader boards. Retained the provision recommended by Staff of the 500 foot illumination restriction when facing residential. And, made an adjustment suggested by the sign industry relative to the maximum sign size instead of 250 it would be 150 for any single tenant. This is kind of an adjustment package here. And, that's what's before you and with that I'll answer questions, perhaps, after other testimony comes up unless you have any.

Jack Thompson, Nebraska Neon Sign Co.: I'm director of marketing for Nebraska Neon Sign Company. We're here today to ask the Council to support the amended language that was approved unanimously by the Planning Commission and Mike took you through the history of the sign ordinance in the O-3 zoning district so that lessens some of what I was going to talk about today. But, basically our feeling is that the compromise, as we like to call it, reached by the Planning Commission appropriately addresses the protection of residential neighborhoods that might be within 500 feet of an O-3 district, yet it retains the spirit of the language that was adopted a year ago which the intent of that, again, was to accommodate the larger multi-tenant office buildings that were being approved by the City and being built. The Planning Commission saw fit to continue the ability for business tenant in an O-3 district to come before the City Council for a waiver to a limited number of sections of the code. They also chose to delete language that would ban all electronic messaging signs. Again, we support the Planning Commission position on these matters, and again, would like to ask the Council to approve the amended compromise language from the Planning Commission as it was written, and I'll answer any questions that anybody may have.

Mark Hunzeker, 530 S. 13th St., Suite B: I'm here on behalf of Hampton Enterprises and Holdrege Investors, two office developers in Lincoln. I'll skip the history. I think you've had two lessons on that, but it is important to have the ability to adjust the requirements within use permit districts. Contrary to some myth those requirements were not brought down from some mountain on a tablet, they were invented by people and they were generally relatively, arbitrarily arrived at. So, to the extent that you have things like set the x & size requirements for signage those are not magic. There is nothing universal about them. They are simply requirements that happen to be in Lincoln ordinances. And, when you deal with rather cumbersome and restrictive regulations, as we often do, in those use permit districts it's very important for the Council to have the discretion in given circumstances to adjust those requirements. That's what you've done once in the last year. I don't believe there's been any great public outcry over that particular adjustment, but I also think it's important for you to understand that it is not the concern over message centers, and we met with Councilman Cook and Fortenberry before the meeting about this before the meeting and the concern over message centers, I think, is somewhat exaggerated. In the O-1 district, excuse me the O-3 district there are ground signs permitted that are as large as 32 square feet. That's a 4 x 8 sign. But, those are only permitted at the entrance to the office park to identify the name of the office park and tenants in the office park. So, you can have those and for individual buildings the size of the ground sign is 15 square feet. So, it's not

very likely that you're going to have a message center on a ground sign unless somebody has to come to you and request a modification which you would have the discretion to grant or not. Now, there is or was expressed to us some concern about the potential of a message center of up to 150 square feet on a large building up in the air that would be visible from a long distance. And, if that is your concern it is easy to fix that problem. I've actually drafted a change that would address that problem, if you're interested in that. But, it seems to us that is the point where if you are concerned about message centers and want to have Council approval of those that's probably the place to do that because you will, in fact, almost all cases have an application before you to modify the size of a particular sign for a particular building because nobody's going to pay the price for a 15 square foot message center. And, I thought just for your, just to give you some perspective of what this ordinance allows in the way of total signage on a building. This is a scaled drawing that gives you an idea of the size of building or size of signage that this current ordinance will permit. That is 250 square foot of signage on the building that is located at approximately 46th & R Street as you go north of O around toward Target at the four way stop at 46th & R. This is on the southwest corner and it's obviously not an overbearing amount of signage. So, with that I'll try to answer any questions you might have.

Mr. Cook: I'd like to have Mike DeKalb come up just for a second. Just to review, the major change that was made when we passed the previous sign change to O-3 was to enlarge the sizes of signs that could go on the building. That was really the critical thing. And, that the previous ordinance allowed what? And, we changed it to what? It was very small. Two 25 square foot signs.

Mr. DeKalb: Changed it to 250 square feet and the prior provision they said to on-premise wall or projecting signs of 25 square feet or one on-premise wall or projecting sign of 25 square feet and one ground sign of 32 square feet.

Mr. Cook: So, they might not even had been able to have two 25 square foot signs. So, we made it possible to have 10 times the sign size that was previously allowed if they have a ground sign. So it was a significant change. I just want to note that what we're talking about today is an adjustment in a previous, rather significant liberalizing of the code in O-3 and that O-2 and O-1 still have the restriction to two 25 foot signs. Is that correct?

Mr. Fortenberry: Mike, do you concur with Mr. Hunzeker's assessment that in reality the message center, electronic message center, electronic signage as it may evolve from it's current center format to more, maybe like, television screens with multiple signage being flashed at certain intervals. Do you think that problem takes care of itself with the size limitations on the ground signs?

Mr. DeKalb: That's a hard one to answer. I really don't feel ...

Mr. Fortenberry: And, also, they have restricted the entryway to an office park. The, I think what's at issue here is certainly one issue I think we hold in common is that if these are going to be posted on the side of a building that's one thing and could be very potentially disrupted, disruptive particularly in a neighborhood setting (inaudible) a monument sign and if this is in a series of things that are competing with one another and they proliferate, again we see a little bit of that technology sneaking into Lincoln currently, are we simply trying to get ahead of that curve and put the brakes on that until we can look at it and see how well it integrates into our O-3 zoning code or again is that problem pretty much taken care of itself by the sign limitation that's currently there.

Mr. DeKalb: Let me answer that in a couple of pieces. You did a good job of packaging some of the scenario's. What the code currently allows is up to 80 square foot of message center of any commercial or industrial district within the same limitations of what the district itself allows whether it be wall sign or ground sign. I think you describe the trade-off's of wall sign versus the ground sign versus multiple ground sign reasonably well. I don't, I'm not qualified to tell you that it will take care of itself based on technology or cost. I think you described the issue as relatively well. I would presume part of may well be in the eye of the beholder as to whether they feel it's appropriate or not.

Mr. Fortenberry: I'm sorry say the last comment again.

Mr. DeKalb: The last sentence was, I would presume, it's probably in the eye of the beholder as to whether or not multiple signs using that technology might be appropriate or not or trade-offs might be appropriate or not. But as it's written now it, the current code they can have 80 square foot, up to 80 square foot within the same limitations of what's

allowed in the district.

This matter was taken under advisement.

CHANGE OF ZONE 3310 - DESIGNATING THE HAYMARKET PARK SIGN DISTRICT AS AN OVERLAY SPECIAL SIGN DISTRICT FOR THE LINCOLN BASEBALL STADIUM ON PROPERTY GENERALLY LOCATED AT NORTH 6TH STREET AND CHARLESTON STREET, BETWEEN I-180 AND SUN VALLEY BOULEVARD - John Sinclair, Sinclair Hille Architects, 700 Q Street: Appearing on behalf of the City of Lincoln relative to what will be if approved the second special sign district in the City of Lincoln. The first one being in the Haymarket District itself. The Haymarket park was created as a joint public private partnership between the City of Lincoln, NEBCO doing business as Lincoln Pro Baseball and the University of Nebraska Lincoln. And, this sign district that is before you is being established to form the foundation for all the future signage that would happen in this entertainment area. I'm just going to quickly highlight on the aspects on the plan and then open it up to any questions you might have. The district as we created it is divided into three major parts. The first part is the Haymarket pedestrian connector. This area right here (showing map) is essentially where the pedestrian bridges cross over the railroad tracks. It forms the link from Haymarket Park down to the Haymarket District itself at the cul-de-sac that's at the end of 8th Street about 8th & P Street. The signage in this particular subarea is basically identification to let people know that this is the way to get over to Haymarket Park. The second subarea that we've created in the district is called Haymarket Park itself. It's the outline, the bigger area in the district itself. Therefore there are four major sign types that occur in this part of the district; an entry sign on Ball Park Drive, and a monument sign at the cul-de-sac where you enter the main pedestrian way for the park itself and then two signs down at the end of the pedestrian way on the east side of the park itself. The third subarea we call Lincoln Stadium and it's basically the two ballparks themselves. There are seven different sign types that occur within this area related basically to the baseball activities that occur within there. We've had several amendments that have been added to this and we're in full support of it probably the most notable one is a request from the North Bottoms area that this portion of the district not be allowed to have any signage at all. That particular portion in the plat was purchased as vacated railroad right-of-way that was part of the plat that originally went through here. There are no intentions of having signage in that area so it's pretty much just set in the overlay district to eliminate that. We've made presentations to urban design, North Bottoms, DLA, Haymarket, everyone in support. I'd be glad to answer any questions.

Mr. Fortenberry: This might be a good place for an electronics. (laughter)

Mr. Cook: Can anything go up on the back of the scoreboard.? There's no sign there. What will that look like?

Mr. Sinclair: There is some identification that's anticipated to put the name Haymarket Park on the back of the scoreboard. I think it does show on that drawing, the second drawing in the bottom of the booklet.

Mr. Cook: No advertising of any sort. Just identification.

Mr. Sinclair: No.

Rich Wiese, 730 Pier 3: I'm here today representing West O area business association. The ball diamond down there does come within our district as far as West O Area Business Association goes. The City several years ago, we sent them a map of the area, when West O area was formed and put together and includes from the Harris viaduct, north the railroad tracks up to I-80 and then over to Charles Street, Charles Street on west. We're not opposing the signs at all or the language at all. I just want to make sure for public here that that does fall within our area and we'd be willing, as we have been in the past, to work with, with the people from the ballpark to have that a reality. There's other things being built down in the area along Sun Valley Blvd. We definitely want to hold onto our identity. And, Mr. Shoecraft last week or two you asked me how West O area's doing. Just for the short record here, we're working. There's, we believe, there's going to be another filling station along Sun Valley Blvd. and also a new bank going in down there. I can't name the names of them yet. This is all in the making, so for the record we do want to hold onto our identity out there. I thank you very much.

Danny Walker, 427 E Street: I think it's somewhat strange that that ballpark is in the West O neighborhood businessmen district. I don't quite understand that when it seems like a majority are residential properties in that area which is fairly close to the ballpark, in North Bottoms District. It seems like some priorities are little mixed up

somewhere. Any questions?

Ms. McRoy: What are you talking about Danny?

Mr. Walker: I'm talking about the ballpark. I don't understand how that's in the West O businessmen's district when it's directly adjacent to residential properties in the North Bottom.

Ms. McRoy: You can see from West O.

Mr. Walker: Oh, OK. We'll see.

This matter was taken under advisement.

CHANGE OF ZONE 3258 - APPLICATION OF ASPEN BUILDERS, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND WEST A STREET. (IN CONNECTION W/01-59 & 01R-73);

CHANGE OF ZONE 3303 - APPLICATION OF ASPEN BUILDERS, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND WEST "A" STREET. (IN CONNECTION W/01-58 & 01R-73);

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF ASPEN RIDGE AND WAIVING BLOCK LENGTH, MINIMUM LOT DEPTH, AND PEDESTRIAN WAY EASEMENT, ON PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND WEST A STREET. (IN CONNECTION W/01-58, 01-59) - Tom Cajka, Ross Engineering: I would just like to give you a brief overview of the project. This is for a residential subdivision on S.W. 27th Street and W. A approximately. It is for 61 residential lots and three outlots. Outlots C. Area in here is for future development. It is within the noise contour line LD & 70 line. And, at this point we're just leaving it as an outlot and looking into the future of possibly platting that at a later date. The preliminary plat was passed by Planning Commission on February 7th. It was on consent agenda. It was approved with conditions. Those conditions have been met to satisfaction of Planning Dept. Basically, that's the overview. Do you have any questions?

This matter was taken under advisement.

SPECIAL PERMIT 1881 - APPLICATION OF HOEGEMEYER-PALMER CONSTRUCTION FOR 12 DWELLING UNITS, ONE ACREAGE LOT, AND ONE OUTLOT ON PROPERTY GENERALLY LOCATED AT PEREGRINE COURT AND TALON ROAD. (IN CONNECTION W/01R-75);

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF EAGLE VIEW AND WAIVING SIDEWALKS ON ONE SIDE OF A PRIVATE ROADWAY AND THE LOT DEPTH-TO-WIDTH RATIO, ON PROPERTY GENERALLY LOCATED AT PEREGRINE COURT AND TALON ROAD. (IN CONNECTION W/01R-74) - Brian Carstens, 2935 Pine Lake Rd., Suite H: Appearing on behalf of Hoegemeyer Palmer Construction. Before you is a Community Unit Plan with a total of six duplex buildings or twelve units total. It's on a private roadway. The piece is currently annexed into the City of Lincoln and it'll have a private roadway and I guess I'm here to answer any questions that you have.

This matter was taken under advisement.

ORDINANCES - 3RD READING

CHANGE OF ZONE 3263 - APPLICATION OF PIONEER WOODS, L.L.C. FOR A CHANGE OF ZONE FROM B-1 LOCAL BUSINESS AND R-3 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD. - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

COOK Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17817**, is recorded in Ordinance Book 24, Page

DECLARING APPROXIMATELY .91 ACRES OF PROPERTY GENERALLY LOCATED IN LOT 2, FAIRVIEW CEMETERY 1ST ADDITION, GENERALLY LOCATED NEAR N. 84TH STREET AND ADAMS STREET, AS SURPLUS AND AUTHORIZING THE SALE THEREOF - CLERK read an ordinance, introduced by Jonathan Cook, declaring a tract of City-owned property generally located near North 84th and Adams Streets as surplus and authorizing the sale thereof to Wyuka Cemetery, the third time.

COOK Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17818**, is recorded in Ordinance Book 24, Page

APPROVING A REDEVELOPMENT AGRMT. BETWEEN THE CITY & TJK INVESTMENTS, INC. FOR

THE REDEVELOPMENT OF THE WEST SIDE OF N. 27TH ST. BETWEEN S & T STS. TO BE KNOWN AS "STERLING VILLAGE" OFFICE/RETAIL SITE - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving the North 27th and "S" to "T" Streets Redevelopment Agreement (Redevelopment Agreement) between the City of Lincoln and TJK Investments, Inc., a Nebraska corporation, 105 S.W. 92nd Street, Lincoln, NE 68532 (Redeveloper), the third time.

COOK Moved to pass ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17819**, is recorded in Ordinance Book 24, Page

AMENDING CHAPTER 6.04 OF THE LINCOLN MUNICIPAL CODE RELATING TO ANIMAL CONTROL REGULATIONS GENERALLY TO AMEND DEFINITIONS; TO INCREASE IMPOUNDMENT FEES; TO MAKE IT UNLAWFUL TO OWN ANIMAL HYBRIDS; TO PROVIDE RESTRICTIONS RELATING TO ACTIVITIES OF PET SHOPS; AMENDING CRUELTY TO ANIMALS TO PROVIDE A SEPARATE SECTION RELATING TO ANIMAL NEGLECT; TO PROVIDE EXCEPTIONS TO VIOLATIONS; AMENDING PROVISIONS REGARDING SELLING OR GIVING AWAY ANIMALS; AND TO PROVIDE ADDITIONAL PENALTIES FOR VIOLATIONS - PRIOR to reading:

CAMP Moved to suspend the rules to have vote prior to Public Hearing 2nd Reading & to delay action w/public hearing for one week to 4/16/01.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Shoecraft; NAYS: None; ABSENT: Seng.

CLERK Read an ordinance amending Chapter 6.04 of the Lincoln Municipal Code relating to Animal Control Regulations Generally by amending Section 6.04.010 to add definitions for "adequate shelter", "animal exhibit", "boarding", "exotic animal", "hybrid", "shade" and "wild animal" and to amend the definitions of "large animal" and "unusual animal"; amending Section 6.04.150 to increase impoundment fees; adding a new Section 6.04.155 to make it unlawful to own animal hybrids; adding a new Section 6.04.165 to provide restrictions relating to activities of pet shops; amending Section 6.04.310 relating to cruelty to animals; adding a new Section 6.04.315 to provide a separate section relating to animal neglect by amending provisions previously contained 6.04.310, Cruelty to Animals; adding a new section numbered 6.04.317 to provide exceptions to the violations set forth in Section 6.04.310; amending Section 6.04.350 regarding selling or giving away animals; amending Section 6.04.440 to provide additional penalties for violations of Chapter 6.04 of the Lincoln Municipal Code; and repealing Sections 6.04.010, 6.04.150, 6.04.310, 6.04.350, and 6.04.440 of the Lincoln Municipal Code as hitherto existing, the third time.

AMENDING CHAPTER 6.04 OF THE LINCOLN MUNICIPAL CODE RELATING TO ANIMAL CONTROL REGULATIONS GENERALLY TO ALLOW THE DIRECTOR OF THE HEALTH DEPARTMENT TO IMPOUND UNUSUAL ANIMALS; TO PROVIDE PERMIT PROVISIONS FOR ANIMAL EXHIBITS OR RIDES; TO MAKE IT UNLAWFUL TO PROVIDE FOR UNUSUAL CARNIVOROUS MAMMALS TO BE RESTRAINED BY THE PUBLIC FOR ENTERTAINMENT PURPOSES; AND TO PROVIDE AN APPEAL PROCESS FOR DENIED, NON-RENEWED AND REVOKED ANIMAL EXHIBIT OR RIDE PERMITS - PRIOR to reading:

CAMP Moved to suspend the rules to have vote prior to Public Hearing 2nd Reading & to delay action w/public hearing to 4/16/01.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Shoecraft; NAYS: None; ABSENT: Seng.

CLERK Read an ordinance, introduced by Jonathan Cook, amending Chapter 6.04 of the Lincoln Municipal Code relating to Animal Control Regulations - Generally by amending Section 6.04.020 to allow the Director of the Health Department to impound unusual animals; amending Section 6.04.210 to provide permit provisions for animal exhibits or rides; adding a new section numbered 6.04.215 to make it unlawful to provide for young unusual carnivorous mammals to be held by the public for entertainment purposes; adding a new section numbered 6.04.225 to provide an appeal process for denied, non-renewed and revoked animal exhibit or ride permits; and repealing Sections 6.04.020 and 6.04.210 of the Lincoln Municipal Code as hitherto existing, the third time.

AMENDING CHAPTER 6.12 OF THE LINCOLN MUNICIPAL CODE RELATING TO CATS TO ADD A DEFINITION FOR "CAT HOBBY KENNEL" AND AMENDING THE DEFINITION OF "KENNEL; TO PROVIDE THE WORD "LINCOLN" BE ENGRAVED ON ALL CAT TAGS; TO PROVIDE THAT ALL MONEY RECEIVED BY THE DIRECTOR UNDER CHAPTER 6.12 SHALL BE CREDITED TO THE ANIMAL CONTROL FUND; TO MAKE IT UNLAWFUL FOR CATS THAT ARE NOT SPAYED OR NEUTERED TO RUN AT LARGE; TO REPEAL THE CURRENT PROVISIONS RELATING TO CATS RUNNING AT LARGE WHILE IN HEAT; TO DELETE REFERENCES TO SECTIONS BEING REPEALED; TO MAKE IT UNLAWFUL TO MAINTAIN A CAT KENNEL; TO PROVIDE EXCEPTIONS TO HAVING A CAT KENNEL; TO CREATE A PERMIT PROCESS TO OBTAIN A

CAT HOBBY KENNEL; TO PROVIDE RESTRICTIONS RELATING TO A CAT HOBBY KENNEL; TO REPEAL THE CURRENT PROVISIONS RELATING TO HOBBY KENNEL OR CATTERY PERMITS; AND TO INCREASE THE MINIMUM FINE FOR FIRST OFFENSE VIOLATIONS OF CHAPTER 6.12 FROM \$25 TO \$35 -

CAMP Moved to suspend the rules to have vote prior to Public Hearing 2nd Reading & to delay action w/public hearing for one week to 4/16/01.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Shoecraft; NAYS: None; ABSENT: Seng.

CLERK Read an ordinance, introduced by Jonathan Cook, amending Chapter 6.12 of the Lincoln Municipal Code relating to Cats by amending Section 6.12.010 to add a definition for "cat hobby kennel" and amending the definition of "kennel"; amending Section 6.12.050 to provide the word "Lincoln" be engraved on all cat tags; adding a new section 6.12.055 to provide that all money received by the Director under Chapter 6.12 shall be credited to the Animal Control Fund; amending Section 6.12.070 to make it unlawful for cats that are not spayed or neutered to run at large; repealing Section 6.12.080 relating to cats running at large while in heat; amending Section 6.12.100 to delete a reference to Section 6.12.080 which is being repealed; adding a new Section 6.12.123 to make it unlawful to maintain a cat kennel; adding a new Section 6.12.125 to provide exceptions to having a cat kennel; adding a new section numbered 6.12.127 to create a permit process to obtain a cat hobby kennel; adding a new section numbered 6.12.129 to provide restrictions relating to a cat hobby kennel; repealing Section 6.12.130 relating to hobby kennel or cattery permit; and amending Section 6.12.290 to increase the minimum fine for first offense violations of Chapter 6.12 from \$25.00 to \$35.00; and repealing Sections 6.12.010, 6.12.050, 6.12.070, 6.12.100, and 6.12.290 of the Lincoln Municipal Code as hitherto existing, the third time.

AMENDING CHAPTER 6.08 OF THE LINCOLN MUNICIPAL CODE RELATING TO DOGS TO ADD A DEFINITION FOR "DOG HOBBY KENNEL" AND TO AMEND THE DEFINITION OF "KENNEL"; TO PROVIDE THE WORD "LINCOLN" BE DIE-STAMPED ON DOG TAGS; TO PROVIDE THAT OWNERS OF DOGS SHALL DISPOSE OF WASTE MATERIAL ACCUMULATING FROM THEIR DOGS AT LEAST ONCE EVERY FIVE DAYS; TO INCLUDE DOG HOBBY KENNEL PERMIT HOLDERS AS EXCEPTIONS TO DOG KENNEL PROHIBITION; TO CREATE AN EXCEPTION TO HAVING A DOG KENNEL FOR PERSONS ON LAND THAT IS ANNEXED BY THE CITY; TO REQUIRE PERMITS FOR DOG HOBBY KENNELS; TO PROVIDE RESTRICTIONS RELATING TO DOG HOBBY KENNELS; TO PROVIDE THAT MONEY RECEIVED PURSUANT TO CHAPTER 6.08 SHALL BE CREDITED TO THE ANIMAL CONTROL FUND; AND TO INCREASE THE MINIMUM FINE FOR FIRST OFFENSE VIOLATIONS OF CHAPTER 6.08 FROM \$25.00 TO \$35.00 -

CAMP Moved to suspend the rules to have vote prior to Public Hearing 2nd Reading & to delay action w/public hearing for one week to 4/16/01.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Shoecraft; NAYS: None; ABSENT: Seng.

CLERK Read an ordinance, introduced by Jonathan Cook, amending Chapter 6.08 of the Lincoln Municipal Code relating to Dogs by amending Section 6.08.010 to add a definition for "dog hobby kennel", and to amend the definition of "kennel"; amending Section 6.08.040 to provide the word "Lincoln" be die-stamped on dog tags; amending Section 6.08.150 to provide that owners of dogs shall dispose of waste material accumulating from their dogs at least once every five days; amending Section 6.08.310 to include dog hobby kennel permit holders as exceptions to dog kennel prohibition; adding a new section numbered 6.08.311 creating an exception to having a dog kennel for persons on land that is annexed by the City; adding a new section numbered 6.08.313 to require permits for dog hobby kennels; adding a new Section 6.08.315 to provide restrictions relating to dog hobby kennels; adding a new Section 6.08.317 to provide that money received pursuant to Chapter 6.08 shall be credited to the Animal Control Fund; amending Section 6.08.350 to increase the minimum fine for first offense violations of Chapter 6.08 from \$25.00 to \$35.00; and repealing Sections 6.08.010, 6.08.040, 6.08.150, 6.08.310, and 6.08.350 of the Lincoln Municipal Code as hitherto existing, the third time.

PRELIMINARY PLAT, SPECIAL PERMITS, USE PERMITS

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF ASPEN RIDGE AND WAIVING BLOCK LENGTH, MINIMUM LOT DEPTH, AND PEDESTRIAN WAY EASEMENT, ON PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND WEST A STREET. (IN CONNECTION W/01-58, 01-59) - PRIOR to reading:

JOHNSON Moved to delay action on Bill No. 01R-73 for one week to 4/16/01.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SPECIAL PERMIT 1881 - APPLICATION OF HOEGEMEYER-PALMER CONSTRUCTION FOR 12

DWELLING UNITS, ONE ACREAGE LOT, AND ONE OUTLOT ON PROPERTY GENERALLY LOCATED AT PEREGRINE COURT AND TALON ROAD. (IN CONNECTION W/01R-75) - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80769 WHEREAS, Hoegemeyer-Palmer Construction has submitted an application designated as Special Permit No. 1881 for authority to develop Eagle View Community Unit Plan consisting of 12 dwelling units on property located at Peregrine Court and Talon Road, and legally described to wit:

A portion of Lot 2, Block 1, Sunrise Estates, and Lots 30 through 33, Block 2, Eagle Crest Addition, all located in the Northwest Quarter of Section 23, Township 10 North, Range 7 East of the Sixth Principal Meridian, City of Lincoln, Lancaster County, Nebraska, more particularly described by metes and bounds as follows: Commencing at the northwest corner of Lot 2, Block 1, Sunrise Estates, and the POINT OF BEGINNING; thence north 89 degrees, 34 minutes, 11 seconds west (an assumed bearing) on the north line of Lot 12, Sunrise Hills 2nd Addition, a distance of 61.07 feet to the southwest corner of Lot 30, Block 2, Eagle Crest Addition; thence north 00 degrees, 05 minutes, 54 seconds east on the west line of said Lot 30, a distance of 120.65 feet, to a point on the south line of Peregrine Court; thence north 55 degrees, 23 minutes, 22 seconds east on said south line, a distance of 4.92 feet; thence on a curve to the right, on the south right-of-way line of Peregrine Court, having a radius of 45.00 feet, a central angle of 33 degrees, 27 minutes, 00 seconds, a chord bearing of north 73 degrees, 22 minutes, 35 seconds east, and a chord distance of 25.90 feet; thence south 89 degrees, 53 minutes, 55 seconds east on said south right-of-way line, and on the north line of Lots 30 through 33, a distance of 131.11 feet, to the northeast corner of Lot 33, Block 2, Eagle Crest Addition, to the City of Lincoln; thence south 00 degrees, 06 minutes, 02 seconds west on the east line of said Lot 33, a distance of 131.84 feet to a point on the north line of Block 1, Sunrise Estates, and the southwest corner of Lot 33, Block 2, Eagle Crest Addition; thence south 89 degrees, 34 minutes, 11 seconds east on said north line of Sunrise Estates, a distance of 107.64 feet; thence south 00 degrees, 25 minutes, 49 seconds west, a distance of 467.14 feet; thence north 88 degrees, 50 minutes, 06 seconds west on the northerly line of Lot 2, Block 2, Sunrise Hills 1st Addition, a distance of 36.10 feet; thence north 77 degrees, 17 minutes, 59 seconds west on the north lines of Lots 16 and 17, Block 2, said Sunrise Hills 1st Addition, a distance of 224.23 feet to the southwest corner of Lot 2, Block 1, Sunrise Estates; thence north 00 degrees, 08 minutes, 37 seconds east on the easterly line of Lots 18, 17, and 16 Sunrise Hills 2nd Addition, a distance of 94.78 feet; thence north 19 degrees, 52 minutes, 25 seconds east on the easterly line of Lots 16, 15, and 14, Sunrise Hills 2nd Addition, a distance of 146.91 feet; thence north 00 degrees, 30 minutes, 21 seconds east on the east line of Lots 14, 13, and 12, Sunrise Hills 2nd Addition, a distance of 185.71 feet to the POINT OF BEGINNING, and containing a calculated area of 122,487.42 square feet or 2.81 acres more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this community unit plan will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Hoegemeyer-Palmer Construction, hereinafter referred to as "Permittee", to develop Eagle View Community Unit Plan, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and

requirements:

1. This permit approves 12 dwelling units.
2. The City Council must approve the preliminary plat of Eagle View (#00026); a modification of the requirements of §26.23.140(a) of the Lincoln Municipal Code to permit lots along Eagle View Court to exceed the 3 to 1 lot depth to width ratio; and a modification of the requirements of §26.23.095 of the Lincoln Municipal Code to allow sidewalks to be installed only on the east side of Eagle View Court.
3. Before receiving building permits:
 - a. The Permittee must submit a revised and reproducible final plan including five copies.
 - b. The construction plans must conform to the approved plans.
 - c. Final plats within this community unit plan must be approved by the City.
4. Before occupying the dwelling units all development and construction must be completed in conformance with the approved plans.
5. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City Attorney.
6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a

copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF EAGLE VIEW AND WAIVING SIDEWALKS ON ONE SIDE OF A PRIVATE ROADWAY AND THE LOT DEPTH-TO-WIDTH RATIO, ON PROPERTY GENERALLY LOCATED AT PEREGRINE COURT AND TALON ROAD. (IN CONNECTION W/01R-74) - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80770 WHEREAS, **Hoegemeyer-Palmer Construction** has submitted the preliminary plat of **EAGLE VIEW** for acceptance and approval; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said preliminary plat and made recommendations as contained in the letter dated March 8, 2001, which is attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the preliminary plat of **EAGLE VIEW**, located at Peregrine Court and Talon Road as submitted by **Hoegemeyer-Palmer Construction** is hereby accepted and approved, subject to the terms and conditions set forth in Exhibit "A", which is attached hereto and made a part of this resolution as though fully set forth verbatim.

BE IT FURTHER RESOLVED that the City Council finds that the tract to be subdivided is surrounded by such development or unusual conditions that strict application of the subdivision requirements would result in actual difficulties or substantial hardship and the following modifications to the subdivision requirements are therefore approved:

1. The requirement of Section 26.23.095 of the Lincoln Municipal Code relating to the installation of sidewalks on both sides of Eagle View Court is waived to allow sidewalks to be placed only on the east side of Eagle View Court.
2. The requirement of Section 26.23.140(a) of the Lincoln Municipal Code that residential lots have a maximum depth of three times their width is waived for the lots along Eagle View Court.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF PIONEER WOODS FOR 8 COMMERCIAL LOTS AND 2 OUTLOTS, AND WAIVERS OF THE REQUIRED STORMWATER DETENTION, AN

INCREASE IN THE 15' DEPTH OF SANITARY SEWER, AND AN INCREASE OF THE STREET APPROACH PLATFORMS TO 3%, ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD. (IN CONNECTION W/01R-69, 01-45)-CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80777 WHEREAS, Pioneer Woods, L.L.C. has submitted the preliminary plat of **Pioneer Woods** for acceptance and approval; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said preliminary plat and made recommendations as contained in the letter dated February 8, 2001, which is attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the preliminary plat of **Pioneer Woods**, located at the northeast corner of South 70th Street and Pioneers Boulevard, as submitted by Pioneer Woods, L.L.C., is hereby accepted and approved, subject to the terms and conditions set forth in Exhibit "A", which is attached hereto and made a part of this resolution as though fully set forth verbatim.

BE IT FURTHER RESOLVED that the City Council finds that the tract to be subdivided is surrounded by such development or unusual conditions that strict application of the subdivision requirements would result in actual difficulties or substantial hardship and the following modifications to the subdivision requirements are therefore approved:

1. The requirement of the storm water drainage design standards for on-site storm water detention is waived.

2. The requirement of the urban public street design standards that roadway platform approaches shall have a maximum slope of 2% is amended to allow a maximum slope of 3%.

3. The requirement of the sanitary sewer design standards which provides that the maximum depth of cover for sanitary sewers is 15 feet is waived to allow depth of the sanitary sewer to be greater than 15 feet.

Introduced by Jeff Fortenberry

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

USE PERMIT 130 - APPLICATION OF PIONEER WOODS, L.L.C. TO DEVELOP 142,000 SQ. FT. OF COMMERCIAL/RETAIL/RESTAURANT SPACE AND TO WAIVE THE STANDARD 50' FRONT YARD TO ALLOW FREE-STANDING PAD SITE GROUND SIGNS IN THE FRONT YARD ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD. (IN CONNECTION W/01R-68, 01-45) - PRIOR to reading:

JOHNSON Moved to amend Bill No. 01R-69 on Page 3, after line 15 insert the following paragraph d: d. The permittee must enter into the Pioneer Woods Retail Center Offsite Transportation Improvement Agreement, attached hereto marked as Attachment "A" and incorporated herein by reference.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80778 WHEREAS, Pioneer Woods, L.L.C. has submitted an application in accordance with Section 27.27.080 of the Lincoln Municipal Code designated as Use Permit No. 130 for authority to develop 142,000 sq. ft. of commercial/retail/restaurant space on property generally located at the northeast corner of 70th Street and Pioneers Boulevard, and legally described to wit:

Lot 38 I.T. and a portion of Lot 51 I.T., all located in the Southwest Quarter of Section 3, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, and more particularly described as follows:

Commencing at the southwest corner of said Lot 38 I.T., said point being the true point of beginning; thence along a curve in a counterclockwise direction having a radius of 113.00 feet, arc length of 35.24 feet, delta angle of 17 degrees 52 minutes 07 seconds, an assumed chord bearing of north 09 degrees 07 minutes 33 seconds west, and a chord length of 35.10 feet to a point of tangency; thence north 00 degrees 11 minutes 30 seconds west along the west line of said Lot 38 I.T., a distance of 255.40 feet to the northwest corner of said Lot 38 I.T.; thence south 89 degrees 35 minutes 10 seconds east along the north line of said Lot 38 I.T., a distance of 8.49 feet to the southwest corner of said Lot 51 I.T.; thence north 00 degrees 13 minutes 44 seconds east along

the west line of said Lot 51 I.T., a distance of 848.75 feet to a point; thence north 90 degrees 00 minutes 00 seconds east, a distance of 267.32 feet to a point of curvature; thence along a curve in a clockwise direction having a radius of 315.50 feet, arc length of 117.41 feet, delta angle of 21 degrees 19 minutes 17 seconds, a chord bearing of south 79 degrees 20 minutes 21 seconds east, and a chord length of 116.73 feet to a point of tangency; thence south 68 degrees 40 minutes 43 seconds east, a distance of 25.32 feet to a point of curvature; thence along a curve in a clockwise direction having a radius of 282.00 feet, arc length of 108.74 feet, delta angle of 22 degrees 05 minutes 35 seconds, a chord bearing of south 57 degrees 37 minutes 55 seconds east, and a chord length of 108.07 feet to a point of tangency; thence south 46 degrees 35 minutes 08 seconds east, a distance of 159.79 feet to a point of curvature; thence along a curve in a clockwise direction, having a radius of 257.00 feet, arc length of 160.73 feet, delta angle of 35 degrees 50 minutes 01 seconds, a chord bearing of south 28 degrees 40 minutes 08 seconds east, and a chord length of 158.12 feet to a point of reverse curvature; thence along a curve in a counterclockwise direction having a radius of 343.00 feet, arc length of 179.45 feet, delta angle of 29 degrees 58 minutes 33 seconds, a chord bearing of south 25 degrees 44 minutes 24 seconds east, and a chord length of 177.41 feet to a point of reverse curvature; thence along a curve in a clockwise direction having a radius of 432.00 feet, arc length of 307.08 feet, delta angle of 40 degrees 43 minutes 40 seconds, a chord bearing of south 20 degrees 21 minutes 50 seconds east, and a chord length of 300.66 feet to a point of tangency; thence south 00 degrees 00 minutes 00 seconds west, a distance of 76.17 feet to a point; thence south 89 degrees 35 minutes 10 seconds east, a distance of 13.21 feet to a point; thence south 00 degrees 24 minutes 50 seconds west, a distance of 31.98 feet to a point of curvature; thence along a curve in a clockwise direction having a radius of 645.00 feet, arc length of 131.90 feet, delta angle of 11 degrees 43 minutes 00 seconds, a chord bearing of south 06 degrees 16 minutes 20 seconds west, and a chord length of 131.67 feet to a point of reverse curvature; thence along a curve in a counterclockwise direction having a radius of 555.00 feet, arc length of 113.49 feet, delta angle of 11 degrees 43 minutes 00 seconds, a chord bearing of south 06 degrees 16 minutes 20 seconds west, and a chord length of 113.30 feet to a point of tangency; thence south 00 degrees 24 minutes 50 seconds west, a distance of 14.33 feet to a point of intersection with the south line of said Lot 51 I.T.; thence north 89 degrees 35 minutes 10 seconds west along the south line of said Lots 51 I.T. and 38 I.T., a distance of 862.10 feet to the true point of beginning, said tract contains a calculated area of 19.79 acres, or 861,938.63 square feet more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this commercial development will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Pioneer Woods, L.L.C., hereinafter referred to as "Permittee", to develop 142,000 sq. ft. of commercial/retail/restaurant space on the property legally described above be and the same is hereby granted under the provisions of Section 27.31.100 of the Lincoln Municipal Code upon condition that construction and operation of said commercial space be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 142,000 square feet of floor area.

2. Before receiving building permits:
 - a. The Permittee must submit a revised and reproducible final plan and five copies to the Planning Department.
 - b. The construction plans must conform to the approved plans.
 - c. Final plats within the area described above must be approved by the City.
 - d. The Permittee must enter into the Pioneer Woods Retail Center Offsite Transportation Improvement Agreement, attached hereto marked as Attachment "A" and incorporated herein by reference.
3. Before occupying the buildings, all development and construction must be completed in conformance with the approved plans.
4. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established property owners association approved by the City Attorney.
5. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors and assigns. The building official shall report violations to the City Council which may revoke this use permit or take such other action as may be necessary to gain compliance.
7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of this use permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving this use permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jeff Fortenberry

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

PETITIONS & COMMUNICATIONS

THE FOLLOWING ITEMS WERE REFERRED TO PLANNING DEPT.:

- Change of Zone 3318 - App. of Ward F. Hoppe from H-3 to 1-1 on property at 35th & Cornhusker.
- Change of Zone 3319 - App. of Richard & Ann Hudson from AG to AGR on property at 112 & Van Dorn.
- Special Permit 1386B - App. of Richard & Ann Hudson to add a one acreage lot at 112th & Van Dorn.
- Special Permit 1909 - App. of Leonard G. Stolzer for temporary storage of construction equipment & material at 5400 S. Folsom.

PETITION TO VACATE PUBLIC WAY A PORTION OF RIGHT OF WAY STUB ADJACENT TO THE SOUTH & WEST LINE OF LOT 3,48TH & SUPERIOR ADDITION AND THE SOUTH & EAST LINE OF LOT 2 H.J.B. INDUSTRIAL PARK 1ST ADDITION SUBMITTED BY DONALD W. LINSOTT, LPR PARTNERSHIP - CLERK presented said petition which was referred to the Law Dept.

REPORTS TO CITY OFFICERS

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED ON Mar. 26, 2001 - CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80775 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council. (Investments from March 19 to 23, 2001.)

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR MARCH 2001 - CLERK presented said report which was placed on file in the

office of the City Clerk. (8-71)

REPORTS FROM CITY TREASURER OF TELECOMM. OCC. TAX FOR THE MONTH OF MAY & JUNE, 2000: NEBRASKA RADIO TELEPHONE SYSTEMS; FEBRUARY, 2001: ALIANT, COAST INT'L., GTC, BROADWING, GLOBAL CROSSING, IBM GLOBAL, INTELLICALL, NETWORK BILLING, AFFINITY NETWORK, AT&T, SPRINT COMM., AIRTIME SMR, ALIANT CELLULAR, LINCOLN CELTELCO - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF MARCH 1-15, 2001. (4/2/01 - AMENDED TO DELETE AND DELAY ACTION ON 4 CLAIMS FOR 1 WEEK, REMAINDER OF CLAIMS REPORT ADOPTED.) - PRIOR to reading:

CAMP Moved to amend Bill 01R-67 to offer \$567.00 plus ½ of the balance of the claim & vote to deny other three claims.

Seconded by Seng & carried by the following vote: AYES: Camp, Johnson, McRoy, Seng; NAYS: Cook, Fortenberry, Shoecraft.

CLERK Read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80776 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated March 16, 2001, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>	<u>ALLOWED</u>
Wayne H. Hahn	\$ 1,049.40
Leroy Milbourn	NAS*
Fleming's Flower Fields, Inc.	1,000,000.00
Marlene Perez	2,408.24

* No Amount Specified

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

OTHER RESOLUTIONS

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE STATE OF NEBRASKA DEPARTMENT OF ROADS FOR MAINTENANCE/REHABILITATION WORK COMPLETED BY CITY CONTRACT ON A PORTION OF NEBRASKA HIGHWAY 2 - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80767 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads which authorizes payment by the State of Nebraska Dept. of Roads to the City of Lincoln for maintenance/rehabilitation work completed by City contract on a portion of Nebraska Highway 2, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to the Department of Public Works, for transmittal and execution by the State Department of Roads.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPOINTING EUGENE CARROLL AND TOM WANSEER TO THE BOARD OF ZONING APPEALS FOR FIVE-YEAR TERMS EXPIRING FEBRUARY 1, 2006 - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80768 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Eugene Carroll and Tom Wanser to the Board of Zoning Appeals for five-year terms expiring February 1, 2006 is hereby approved.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

REGULAR MEETING
APRIL 9, 2001
PAGE 242

REAPPOINTING RANDY BOLDT TO THE EMS, INC. BOARD OF DIRECTORS FOR A THREE-YEAR TERM EXPIRING MARCH 28, 2004. (3/26/01 - ACTION DELAYED FOR TWO WEEKS TO 4/9/01) - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80779 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the reappointment of Randy Boldt to the EMS, Inc. Board of Directors for a three-year term expiring March 28, 2004 is hereby approved.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: Camp.

APPOINTING REV. LAUREN EKDAHL TO THE EMS, INC. BOARD OF DIRECTORS FOR A THREE-YEAR TERM EXPIRING MARCH 28, 2004. (3/26/01 - ACTION DELAYED FOR TWO WEEKS TO 4/9/01) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

38-4357 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Rev. Lauren Ekdahl to the EMS, Inc. Board of Directors for a three-year term expiring March 28, 2004 is hereby approved.

Introduced by Jonathan Cook

Seconded by Seng & **LOST** by the following vote: AYES: Cook, McRoy, Seng; NAYS: Camp, Fortenberry, Johnson, Shoecraft.

The resolution, having **LOST**, was assigned File **#38-4357** & was placed on file in the Office of the City Clerk.

APPEAL OF HEARTLAND INSURANCE POOL, INC. FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 1896 FOR AUTHORITY TO OPERATE A SALVAGE YARD ON PROPERTY GENERALLY LOCATED AT N. 1ST & CHARLESTON STS. (3/12/01 - ACTION DELAYED ONE WEEK TO 3/19/01) (3/19/01 - ACTION DELAYED ONE WEEK TO 3/26/01) (3/26/01 - ACTION DELAYED FOR TWO WEEKS TO 4/9/01) - PRIOR to reading:

SENG Moved to Withdraw Bill No. 01R-50.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The resolution, having been **WITHDRAWN**, was assigned the File **#38-4358** & was placed on file in the Office of the City Clerk.

SETTING HEARING DATE OF APRIL 23, 2001 AT 1:30 P.M. ON THE APPLICATION OF DENIS N. VONTZ DBA "PIONEERS GOLF COURSE" FOR AN ADDITION TO PREMISES AT 3404 W. VAN DORN - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80771 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., April 23, 2001, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the Man. App. of Denis N. Vontz dba "Pioneers Golf Course" for an addition to premises at 3404 W. Van Dorn.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF APRIL 16, 2001 AT 1:30 P.M. ON APP OF TWISTED STEELE, INC. DBA "LAZZARI'S" FOR A CLASS C LIQUOR LICENSE UPGRADING FROM CLASS J & ADDING A PORTION OF IGUANA'S LICENSE AT 1430-1434 "O" STREET - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80772 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., April 16, 2001, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the App. of Twisted Steele, Inc. dba "Lazzari's for a Class C Liquor License upgrading from Class J & adding a portion of Iguana's License at 1430-1434 "O" Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF APRIL 16, 2001 AT 1:30 P.M. ON MAN. APPLICATION OF MATTHEW S. VRZAL FOR TWISTED STEELE, INC. DBA LASSARI'S AT 1430-1434 O ST. - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80773 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., April 16, 2001, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the Man. App. of Matthew S. Vrzal for Twisted Steele, Inc. dba Lassari's at 1430-1434 O Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MONDAY, APRIL 23, 2001 AT 1:30 P.M. ON THE MAN. APP. OF KIRK J. SCHOLTEN FOR EXPO, INC. DBA IGUANA'S PUB & GRILL AT 1426 O STREET - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption:

A-80774 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., April 23, 2001, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the Man. App. of Kirk J. Scholten for Expo, Inc. dba Iguana's Pub & Grill at 1426 O Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ORDINANCES - 1ST & 2ND READING

DECLARING PORTIONS OF THE HIGHLANDS SOUTH PARK AS SURPLUS PROPERTY, GENERALLY LOCATED AT N.W. FAIRWAY DRIVE AND W. HARVEST DRIVE - CLERK read an ordinance, introduced by Jeff Fortenberry, authorizing the sale of a surplus tract of land generally located at N.W. Fairway Drive and W. Harvest Drive and legally described in Attachment "A", for the first time.

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 135.27 ACRES OF PROPERTY GENERALLY LOCATED AT N.W. 48TH STREET AND WEST ADAMS STREET. (IN CONNECTION W/01-61, 01R-77, 01R-78, 01R-79, 01R-82) - CLERK read an ordinance, introduced by Cindy Johnson, amending Section 2 of Ordinance No. 8730 passed May 17, 1965, as last amended by Section 1 of Ordinance No. 17566 passed November 1, 1999, prescribing and defining the corporate limits of the City of Lincoln and repealing said Section 2 of Ordinance No. 8730 passed May 17, 1965, as last amended by Section 1 of Ordinance No. 17566 passed November 1, 1999, as hitherto existing the first time.

CHANGE OF ZONE 3248 - APPLICATION OF M & S CONSTRUCTION FOR A CHANGE OF ZONE FROM I-2 INDUSTRIAL TO H-4 GENERAL COMMERCIAL, B-2 PLANNED NEIGHBORHOOD BUSINESS AND R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT N.W. 48TH STREET AND WEST ADAMS STREET. (IN CONNECTION W/01-60, 01R-77, 01R-78, 01R-79, 01R-82) - CLERK read an ordinance, introduced by Cindy Johnson, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 110 ACRES OF PROPERTY GENERALLY LOCATED AT FLETCHER AVENUE AND TELLURIDE DRIVE. (IN CONNECTION W/01-63, 01R-80, 01R-81) - CLERK read an ordinance, introduced by Cindy Johnson, amending Section 18 of Ordinance no. 8730, passed May 17, 1965, as last amended by Section 1 of Ordinance No. 17623, passed February 28, 2000; amending Section 20 of Ordinance No. 8730, passed May 17, 1965, as last amended by Section 1 or Ordinance No. 17683, passed June 5, 2000, prescribing and defining the corporate limits of the City of Lincoln, Nebraska; repealing Section 18 of Ordinance No. 8730, passed May 17, 1965, as last amended by Section 1 of Ordinance No. 17623, passed

REGULAR MEETING
APRIL 9, 2001
PAGE 244

February 28, 2000, as hitherto existing; and repealing Section 20 of Ordinance No. 8730 passed May 17, 1965, as last amended by Section 1 of Ordinance No. 17683, passed June 5, 2000, as hitherto existing, the first time.

CHANGE OF ZONE 3260 - APPLICATION OF NORTH CREEK L.L.C. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL, H-3 HIGHWAY COMMERCIAL, AND H-4 GENERAL COMMERCIAL, AND FROM R-3 RESIDENTIAL TO H-4 GENERAL COMMERCIAL AND H-3 HIGHWAY COMMERCIAL ON PROPERTY GENERALLY LOCATED AT FLETCHER AVENUE AND TELLURIDE DRIVE. (IN CONNECTION W/01-62, 01R-80, 01R-81) - CLERK read an ordinance, introduced by Cindy Johnson amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

DECLARING APPROX. 2.04 ACRES OF PROPERTY GENERALLY LOCATED ON THE NORTH SIDE OF PIONEERS BLVD., WEST OF RIDGEVIEW DRIVE, AS SURPLUS & AUTHORIZING THE SALE THEREOF. (2/26/01 - PLACED ON PENDING) (IN CONNECTION W/01-55) (4/2/01 - REMOVE FROM PENDING W/PUBLIC HEARING ON 4/9/01) - CLERK read an ordinance, introduced by Cindy Johnson, declaring a tract of City-owned property generally located on the north side of Pioneers Blvd., west of Ridgeview Drive, as surplus and authorizing the sale thereof to Talent +, the second time.

CHANGE OF ZONE 3311 - APPLICATION OF THE DIRECTOR OF THE PARKS & RECREATION DEPARTMENT FOR A CHANGE FROM P PUBLIC USE DISTRICT TO O-3 OFFICE PARK DISTRICT ON PROPERTY GENERALLY LOCATED 450 FEET WEST OF RIDGEVIEW DRIVE, ON THE NORTH SIDE OF PIONEERS BLVD. (IN CONNECTION W/01-14) - CLERK read an ordinance, introduced by Jeff Fortenberry, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

APPROVING A CONTRACT BETWEEN THE CITY AND THE LINCOLN HAYMARKET DEVELOPMENT CORP. TO OPERATE AND REGULATE A SATURDAY PUBLIC MARKET IN THE HAYMARKET AREA FROM MAY 5, 2001, THROUGH OCTOBER 27, 2001 - CLERK read an ordinance, introduced by Jeff Fortenberry, accepting and approving the Contract between the City of Lincoln, Nebraska, a municipal corporation, and the Lincoln Haymarket Development Corporation for establishment and regulation of a Saturday public market in the Haymarket area from May 5, 2001 through October 27, 2001, the second time.

APPROVING A CONTRACT BETWEEN THE CITY AND THE DOWNTOWN LINCOLN ASSOCIATION TO OPERATE A MID-WEEK PUBLIC MARKET IN THE MARKETPLACE AREA AT 12TH STREET FROM Q TO R STREET AND FROM 12TH TO 13TH STREETS FROM MAY 15, 2001, THROUGH JULY 31, 2001 - CLERK read an ordinance introduced by Jeff Fortenberry, accepting and approving the Contract between the City of Lincoln, Nebraska and Downtown Lincoln Association for establishment and regulation of a Tuesday public market in the Marketplace area from May 15, 2001 through July 31, 2001, for the second time.

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,600,000 OF THE CITY'S Q, O, P, R/NORTH HAYMARKET REDEVELOPMENT PROJECT TAX ALLOCATION AND REFUNDING BONDS - CLERK read an ordinance, introduced by Jeff Fortenberry, authorizing and providing for the issuance of not to exceed \$1,600,000 City of Lincoln, Nebraska, Q, O, P, R/North Haymarket redevelopment project tax allocation and refunding bonds, series 2001, for the purpose of (1) paying all or part of the costs of acquiring, purchasing, constructing, reconstructing, improving, extending, rehabilitating, installing, equipping, furnishing and completing certain public improvements within the city's Q, O, P, R/North Haymarket Redevelopment project inclusive of any acquisition of real estate and/or interests in real estate in connection therewith, (2) providing for the payment and redemption of all of the city's presenting outstanding Q, O, P, R/North Haymarket Redevelopment project tax allocation bonds, series 1995; prescribing the form and certain of the details of the bonds; pledging certain tax allocation and other tax revenues to payment of the principal of an interest on the bonds as the same become due and to carry out all other covenants of this ordinance; limiting payment of the bonds to said tax allocation and other tax revenues; creating; establishing funds and accounts; authorizing the public or private sale and delivery of the bonds; delegating, authorizing and directing the finance director to exercise his own independent

discretion and judgment in determining and finalizing the terms and provisions with respect to the bonds not specified herein; providing for application of the proceeds of the bonds; providing for payment of the principal of and interest on the bonds; taking other action and making other covenants and agreements in connection with the foregoing; and related matters, for the second time.

AMENDING SECTION 9.44.040 OF THE LINCOLN MUNICIPAL CODE RELATING TO FIREWORKS TO PROVIDE FOR THE ASSESSMENT OF A LATE FEE ON ALL APPLICATIONS FOR A LICENSE AS A FIREWORKS RETAILER POSTMARKED OR RECEIVED BY THE CHIEF OF THE BUREAU OF FIRE PREVENTION AFTER JUNE 23, TO INCREASE THE LICENSE FEE TO \$75.00, TO AMEND THE PROVISION REGARDING ISSUANCE OF A LICENSE, AND REPEALING SECTION 9.44.085 RELATING TO THE SALE AND USE OF FIREWORKS FROM DECEMBER 30, 1999 TO JANUARY 1, 2000 - CLERK read an ordinance, introduced by Jeff Fortenberry, amending Chapter 9.44 of the Lincoln Municipal Code relating to fireworks by amending Section 9.44.040 to provide for the assessment of a late fee on all applications for a license as a fireworks retailer postmarked or received by the Chief of the Bureau of Fire Prevention after June 23, to increase the license fee to \$75.00, and to amend the provision regarding issuance of a license; repealing Section 9.44.085 relating to sale and use of fireworks from December 30, 1999 to January 1, 2000; and repealing Section 9.44.040 of the Lincoln Municipal Code, for the second time.

CHANGE OF ZONE 3134B - APPLICATION OF CHRISTIAN RETIREMENT HOMES, INC. D/B/A EASTMONT TOWERS, TO ADD AND OPERATE A SIX BED HEALTH CARE FACILITY IN THE WILLOW SPRINGS FINAL PLANNED UNIT DEVELOPMENT ON PROPERTY GENERALLY LOCATED AT SOUTH 78TH STREET AND PIONEERS BLVD - CLERK read an ordinance, introduced by Jeff Fortenberry, approving Amendment No. 2 to the Development Plan and Agreement for the Willow Springs Planned Unit Development to add a six bed health care facility on Lots, 7, 8, and 9, Block 4, Willow Springs Addition, for the second time.

CHANGE OF ZONE 3307 - AMENDING SECTION 27.69.044 OF THE LINCOLN MUNICIPAL CODE RELATING TO PERMITTED SIGNS IN THE 0-1, 0-2, AND 0-3 ZONING DISTRICTS TO ADJUST THE PERMITTED SIGN REGULATIONS IN THE 0-3 OFFICE PARK DISTRICT TO BETTER REFLECT A TRANSITIONAL DISTRICT - CLERK read an ordinance, introduced by Jeff Fortenberry, amending Section 27.69.044 of the Lincoln Municipal Code relating to permitted signs in the 0-1, 0-2, and 0-3 zoning districts to adjust the permitted sign regulations in the 0-3 Office Park District to better reflect a transitional district; and repealing Section 27.69.044 of the Lincoln Municipal Code, for the second time.

CHANGE OF ZONE 3310 - DESIGNATING THE HAYMARKET PARK SIGN DISTRICT AS A OVERLAY SPECIAL SIGN DISTRICT FOR THE LINCOLN BASEBALL STADIUM ON PROPERTY GENERALLY LOCATED AT NORTH 6TH STREET AND CHARLESTON STREET, BETWEEN I-180 AND SUN VALLEY BOULEVARD - CLERK read an ordinance, introduced by Jeff Fortenberry, designating the Haymarket Park Sign District as an overlay special sign district for the Lincoln Baseball Stadium on property generally located at North 6th Street and Charleston Street, between I-180 and Sun Valley Blvd., in accordance with the provisions of 27.69.300 of the Lincoln Municipal Code and adopting special criteria for signs in said district, for the second time.

VACATING A PORTION OF THE SOUTH 16TH STREET RIGHT-OF-WAY, A PORTION OF THE SOUTH 19TH STREET RIGHT-OF-WAY AND SOUTHPARK ROAD - CLERK read the ordinance, introduced by Jeff Fortenberry, whereas Southpark Road, 16th Street and 19th Street were dedicated to the City of Lincoln in the final plat of Lincoln Industrial Park, for the second time.

CHANGE OF ZONE 3258 - APPLICATION OF ASPEN BUILDERS, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND WEST A STREETS - CLERK read an ordinance, introduced by Jeff Fortenberry, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided in Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established, for the second time.

CHANGE OF ZONE 3303 - APPLICATION OF ASPEN BUILDERS, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND WEST "A" STREET - CLERK read an ordinance, introduced by Jeff Fortenberry, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing Boundaries of the districts established, for the second time.

MISCELLANEOUS BUSINESS

PENDING LIST -

CAMP Moved to extend the Pending List for 1 week.
Seconded by Johnson & carried by the following vote: AYES: Camp,
Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on April 16,
2001.
Seconded by Johnson & carried by the following vote: AYES: Camp,
Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ADJOURNMENT

4:05 p.m.

CAMP Moved to adjourn the City Council Meeting of April 9, 2001.
Seconded by Johnson & carried by the following vote: AYES: Camp,
Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

So ordered.

Joan E. Ross, City Clerk

Judy Roscoe, Office Assistant III

RECONVENED

SHOW CAUSE HEARING OF LINCOLN KENO, INC.

4:05 P.M.

RE: APPEAL HEARING OF LINCOLN KENO INC. CONTRACT TERMINATION - Don Taute, Asst.
City Attorney: Came forward to discuss whether to proceed with the Appeal
hearing as the appellants, Lincoln Keno Inc., were not present. There is
an appeal with the State Department of Revenue Charitable Gaming Division
on the intent to deny their license and Lincoln Keno Inc. felt they
couldn't present their case before the City Council until the matter with
the State is resolved.

Chairman Shoecraft: Is there a motion to have the hearing?

Mr. Fortenberry: So moved.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook,
Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

Don Taute, Asst. City Attorney: I've covered most of the
preliminary history of this application and this matter (inaudible)
consideration some documentation that has been, again been talked about
somewhat in the discussions of what we've had already. And, with that
I'll just go ahead and I've got a copy for each Council Member for you to
consider. First item is a March 1st letter from the State to the Attorney
for Lincoln Keno. This is the notice of intent to deny their license and
it sets forth all of the reasons for the State's basis for denial. The
next item that we talked about a little bit already is the Mayor's letter
of March 2nd who provided the notice to Lincoln Keno of the City's

termination of their operator's agreement. The next item that we talked just briefly about is the, it's basically a waiver form and the questionnaire which is attached to this is the questionnaire from the first interview that Investigator Fosler had with Mr. Hassett who was going to be the manager of the Lincoln operation. You'll note from the waiver form typed at the bottom of that paragraph that the omission of any facts or the failure to tell the truth being the basis for denial of the application. And, then on page, and if you get to the background interview questionnaire you'll note that the fourth blank down, do you have a financial investment in the business, the answer is none. And there is a question about ownership and Investigator Fosler circled lease so it didn't say anything about own. The next item ...

Mr. Fortenberry: Can I ask a question? They considered this (inaudible) about a \$75,000 payment as a loan. Does that fall under the question as to whether or not did they have a financial investment in the business? Stock as collateral or part of the agreement or collateral as part of what would be purchased considered some kind of a loan and then repayment would be a percent, is that considered a financial investment.

Mr. Taute: Legally speaking I suppose it would or could be. I don't know why not. It seemed fairly clear that he'd given the money to the company, so, you know Jeff, if that would be an investment? Again, I don't know what they were necessarily thinking.

Mr. Fortenberry: Hey, I was just asking sort of a rhetorical question here because it seem (inaudible).

Mr. Taute: Well, I would think so. Even if you consider, even if it's not a loan it's just a gift in exchange. It would seem to me that that would be the consideration, a contractual type of arrangement. A consideration for my being able to share in 50% of the profit. I mean I look at it in that fashion. The next item is (inaudible) summary from Russ Fosler for the interview, problem interview on page 7. Kind of reiterating this earlier the special?? of January 18.

Mr. Camp: Don on the March 2nd letter, you've got the March 1st letter from the State noting how they hadn't applied and had misrepresentation and then you have the March 2nd letter from the Mayor back. The second paragraph says here you will note, this is a letter from Mr. Dahlke, it says you will note in the agreement that Section 1C imposes a duty upon the Keno operator to comply with all state regulations. Isn't the March 1 correspondence saying they haven't complied?

Mr. Taute: It is still an intent. It's not a final decision by the State.

Mr. Camp: But we're past, on March 2nd we're already past the February 14th day. I just don't understand.

Mr. Taute: We're taking formal action to terminate their contract is what we're doing.

Mr. Camp: And they did it. Then why give up the \$80,000?

Mr. Taute: I'm not going to revisit that because I don't have the answer for that.

Mr. Camp: Or do we still have that opportunity because I'd like to see us ...

Mr. Taute: There's a letter of credit still in place that was posted by them as a requirement of the contract to cover that amount. And, there is also a \$250,000 letter of credit in place that is the performance bond.

Mr. Camp: You've got \$330,000?

Mr. Taute: No.

Mr. Camp: We're limited to \$100,000. Are you saying we still have opportunity to collect at least through March 2nd \$5,000 a day so it would be \$80,000?

Mr. Taute: I think you can, the \$100,000 has run its course right now. I mean if they're still the operator I think that, I mean, you could make an argument that we're entitled to all 20 days.

Mr. Camp: Why don't we do that?

Mr. Taute: I don't have the answer to that question, Jon.

Mr. Camp: Will you let us know?

Mr. Taute: Yeah, well I certainly can. I don't know if it's going to be different than what I've already told you that the Mayor did not want to pursue that because we were already proceeding with the termination of the agreement and that's the best I can do for you. And, if that changes I'll certainly get back to you.

Mr. Camp: Is that an administrative decision not to go after the \$80,000 or is that some of the \$100,000 or is that ...?

Mr. Taute: Well, the agreement was still in place and the Mayor is the one that, technically, the one who oversees the contract and it's administration or Don Herz as the Finance Director's actually the Keno operator agreement administrator. And, my understanding was that that was

how the City was going to proceed.

Mr. Camp: Isn't that going against our former policy where we imposed it on the other operator?

Mr. Taute: I'm not aware if we ever imposed it on another operator.

Mr. Camp: It's my understanding that Big Red Keno had been fined before.

Mr. Taute: I don't know.

Mr. Camp: I just want to make sure ...

Mr. Taute: Yeah Jon, I don't know. If Mark Leikam knows then we can have Mark maybe answer that question.

Mr. Camp: A \$100,000 I just don't understand why we're giving it up because we didn't violate anything with it. Basically, the Lincoln Keno people are the ones who didn't meet the arrangements and they got an extra 120 days to do it, so... anyway.

Mr. Cook: OK, so the termination letter was March 2nd, they were suppose to be operating by what day? I'm sorry.

Mr. Taute: February 14th.

Mr. Cook: February 14th so that isn't quite 20 days. I mean it sounds like you were saying the collection of that money may be difficult for a variety of reasons.

Mr. Taute: I mean those are issues, Jonathan, that are out there. I'm not saying that, you know, right now the contract terms, the operator agreement states that the \$100,000 bond is what's required. In this case they posted a letter of credit that's to cover at \$5,000 a day as liquidated damages in the event that the operator does not commence operations as required.

Mr. Cook: Given that the termination was just slightly before the 20 days had elapsed, you may not be able to answer this now, will that make a difference? Obviously, once they received a letter of termination they weren't about to start up even if they were ready to go the next day so it wouldn't have been their fault anymore that they weren't operating.

Mr. Taute: Right. It would not behoove us to try and go after anything extra, I would agree.

Mr. Cook: So, basically about 16 days or so we might ...

Mr. Taute: Well, right. The next item is the April 2nd letter of appeal to Joan Ross, City Clerk, indicating that pointing out that one of the main issues regarding the termination was the lack of the license from the State with State's intent to deny. And, the reason I've given that to Council or offer that is to simply indicate that the story changed a little bit within four days. If you look at the April 6th letter that is in possession of Chairman Shoecraft it says that the sole reason that the contract was terminated was the lack of a license and then they claim the impossibility of being able to proceed before this body with an appeal prior to having a hearing before the State. And, you, again, offer to show through (inaudible) purposes that the letter from the Mayor on March 2nd clearly indicates 3 if not 4 grounds that constitute a material breach in their operators agreement, therefore forming the basis for the recommendation or the terminating the agreement. And, with that that's really all of the evidence that the City would have with respect to this matter and based upon what we certainly would consider material breach as to the operator's agreement in their failure to commence operations, not so much only from the standpoint of what the State has done, but, I mean I think certainly it's a material breach that the agreement clearly requires that they initially, when we approved, they commence operation within 45 days from date of approval. When they realized at a meeting with the State, representatives of the City, Finance Dept. held, I believe it was the 26th of October, about 10 days after their agreement was approved, they realized that they were not going to be able to open within 45 days. And, they came back, we received a letter basically asking for a waiver of the 45 day provision. We responded by saying that it's not a provision, it's a waiver. It's a material. It's not waivable. It's material provision and therefore we need to amend the agreement. The agreement was amended by Council giving them a 120 days effectively requiring them to open, commence operation on February 14th and that was not done. And, we knew that the State was going to be acting on the license relatively quickly, I mean, I guess going back to the question you were asking Jon, we could have sent the letter on May 5th, er excuse me, February 15th saying we're terminating because you failed to commence your operation. But, we chose to wait for the State because we had been in communication with the State and given some of the irregularities that had been discovered through the joint investigation we chose to wait to see what the State was going to do. We could have certainly proceeded without waiting for the State in issuing it's letter of intent to deny, but because we chose to wait until that happened. That's, again, because the two dates rather coinciding on March 1st and March 2nd. We waited and we

got the faxed copy of the letter from the State and proceeded to send the letter on March 2nd.

Mr. Camp: As I recall, too, there (inaudible) during that last month between Lincoln Keno representatives and the State, I mean they just didn't do anything.

Mr. Taute: There was a lot, I think, the State would probably tell you that there was quite a bit of that lack of communication. And, again there was some other issues I pointed out in the letter that I think were important is that as it drew near to hearing an approval on that Resolution to amend the agreement allowing for a 120 days to open the operation we had yet to receive any bonds as required by the contract, the \$100,000 and the \$250,000 bond. And Mark Leikam, the Finance Keno Auditor had had a number of conversations with Lincoln Keno representative saying, you know, where are our bonds? I wrote them finally on, I believe, November 21 we're going to place on Pending or suggest that Council Pend your request to amend this agreement unless you've got the bond. And, then they rushed in with a \$100,000 cashiers check which interestingly enough came from funds supplies by Mr. Hassett and \$250,000 cashiers check which interestingly enough came from Ted Bare's father Allen Bare who supposedly did not have any interest in the business either. And, those were held by us in lieu and we said fine, but you've got to have letters of credit or something in place eventually. And, they did do that. Council proceeded and allowed them. It was a month, over a month and a half after their initial approval that they even got the bonds to us. That's discussed in the letter. So, I mean, like this was just on one sole reason that the recommendation, I keep calling it a recommendation, but the letter telling, notifying them of termination was issued.

Mr. Camp: I remember when you had those hearings in November and all and even then it was irregular change on the policy but we, you know, we wanted to try to make the deal work.

Mr. Taute: Well, then we even had it amended a second time if you recall, Jon. When we were told that their main game operator that they were going to have in place, Mulligan's Bar and Grill, wasn't going to work and we had to substitute Bunkers and, so we amended the agreement twice. So, to sum up I would just ask Council to go ahead and sustain the decision to terminate the agreement.

Ms. Seng: I was just going to (inaudible) say it again then.

Mr. Taute: Well, the motion, I have prepared a written decision again for purposes of, and I may have to amend that a little bit because I did have Lincoln Keno being present. We could probably inner lineate that and just cross it out or I can have it retyped for your signature Jerry, if you prefer, to make sure that it correctly reflects. But my motion would simply be that the motion is to, would be to, the decision of the Council would be to sustain the Mayors termination of the Keno operator agreement between the City of Lincoln and Lincoln Keno.

Ms. Seng: I would so move then.

Ms. Johnson: Second.

Mr. Camp: What is the affect of this motion on the \$5,000 a day bond or that charge, because I don't want to ...

Mr. Taute: I don't know that you're giving up that Jon. My initial reaction would be that looking back at that point in time the actual notice from the Mayor was dated March 2nd. At that time there was still an agreement in place and that we would, they obviously did not commence operation on the drop dead date being February 14th, so it would be my opinion that that would still be in place at that point and time and that we could go back and pursue that. And, I guess that's a question of, you know, how that's done and, I mean, it seems to me that based on what we've been discussing so far today that that would be something that would need to be taken up with the Administration. But, again, like, my understanding of the matter is right now that we've been told we don't want to pursue that at this point because we are going to terminate. So, you've got, it would be what, Jon, 16 days essentially?

Mr. Camp: Well, in our motion would it be possible to include the language then that if we sustain the action, but we do not, but we intend to have the \$5,000 bond.

Mr. Shoecraft: It's not our, I don't think that's our decision.

Mr. Camp: Well, I don't want to do anything to jeopardize that though, I mean if that's the case I ...

Mr. Shoecraft: I think, I don't know, I don't understand all this that well as far as that, that's an administrative decision.

Mr. Camp: I don't think that's administrative. I think it's the nuts and bolts of the contract. They agreed to be open February 15. (inaudible)

Mr. Taute: (inaudible) which they did. So, by doing that they really, the formal termination of the agreement is not affective until

this Council decides that is the case. So, turning back the clock until the Mayor issued that letter that operators agreement was in place. So, I don't know what that does to jeopardize that \$100,000. I guess I don't think it has an affect. Whether we decide it today or wait two weeks or three weeks or a month down the road I don't think would affect whether or not the validity of going after that \$100,000 is jeopardized. My opinion is that it's not.

Ms. Seng: I would just say again, my motion is to terminate the agreement. That's what my motion was.

Mr. Cook: I would just say that if this made some difference in that last \$20,000 there might be some concern, but it sounds as though the Mayor's termination letter is the date that would really be, what would make the difference in that determination. Certainly, I think that seems like the fair way of ...

Mr. Taute: Well, upon the initial answer probably to the contrary, but now that I thought about it, yeah, I mean, if we're telling them that you're done as of this date then I ...

Mr. Cook: You can't hold them responsible for not opening.

Mr. Taute: Yes. Right.

Mr. Cook: So, really since we're not losing any rights in making this decision I'm fairly comfortable with going ahead with it. If someone wants to pursue any discussions with the administration that perfectly fine, but I don't think that this affects what the Administration would do in that regard. If that's the case I would vote yes to uphold the Mayor's termination.

Mr. Fortenberry: I'll vote yes to uphold the (inaudible) financial settlement as was bonded for contract non-performance.

Ms. Johnson: Is he making that part of the motion?

Mr. Fortenberry: No, I would assume the Council would have to discuss that and make that recommendation as a body separate from this hearing to the Administration.

Mr. Taute: And, again without talking to Dana if that's something that Council wants to pursue with the Administration and then I'd be happy to ...

Mr. Fortenberry: I don't think this hearing has anything to do with it. I'm using it as a case. I think the point is very valid that there was a nonperformance there on the part of the contract. We should (inaudible) I'm just shocked by the sloppiness of all of this.

Mr. Taute: I think there are a few people that are.

Mr. Fortenberry: On the part of the applicant.

Mr. Taute: I understand.

Mr. Camp: To my colleagues I guess if we vote on this today I'm going to have to vote against it just because I'm not 100% sure that we're not giving up something there on that financial part. If it were included in the Resolution I would vote for it, but without that I think just saying something in the record doesn't give us any legal stance. I'm not sure and I heard the 99% confidence level, Don, but I didn't hear 100% and I just don't want to put you on the spot and so I just got to believe that, if anything, I would rather defer that until I know for sure because I, the \$80,000, whether it's \$80,000 or \$100,000 that's a lot of money, and, it wasn't the City's nonperformance. We did everything, bent over backwards to help Lincoln Keno get the extension and as Jeff just said it's kind of a lack of pursuit on their part and gosh the evidence shows here that they didn't disclose things properly or whatever.

Mr. Taute: That is certainly how it appears.

Mr. Camp: Appears, yes. And, so if that's, if we're going to a vote today I'm going to have to oppose it because I don't want to lose the City's right to go against that \$5,000 a day.

Seconded by Johnson & carried by the following vote: AYES: Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: Camp.

ADJOURNMENT

4:55 P.M.

JOHNSON Moved to adjourn the Show Cause Hearing of April 9, 2001.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

Joan E. Ross, City Clerk

Judy Roscoe, Office Assistant III